

Canada Keeps the CERS Cash Rolling, but Slows the Flow with the Program's End in Sight

July 27, 2021

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As part of the 2021 budget, the federal government has made some noteworthy changes to the Canada Emergency Rent Subsidy ("CERS") program in anticipation of an economic ramp-up in the fall as more Canadians receive their full doses of the COVID-19 vaccinations.

What is CERS?

As mentioned in our previous [article](#), CERS replaced the former Canada Emergency Commercial Rent Assistance ("CECRA") program which expired on January 31, 2021. The purpose of CERS is to provide financial support to tenants and property owners who have suffered a loss in revenue due to the COVID-19 pandemic. Unlike CECRA, which required commercial landlords to apply on behalf of their tenants, CERS provides support directly to qualifying tenants without the need for a landlord's approval. Under CERS, qualifying tenants and property owners can apply for a federal subsidy directly through the Canada Revenue Agency to cover a portion of their commercial rent or property expenses (e.g., mortgage interest, insurance, property taxes) incurred between September 27, 2020, to September 25, 2021.

Changes to Eligibility for CERS

Generally, to be eligible for CERS, applicants must have experienced a drop in revenue during the relevant Qualifying Period. Currently, there are 13 Qualifying Periods, of which 6 are currently open for applications and 3 have not yet opened.

During Qualifying Periods 1 to 10, no minimum revenue drop is required to qualify for the subsidy (the revenue drop only applies to the *amount* of support available under the program). However, with the passage of the 2021 budget and the extension of the CERS subsidy to include Qualifying Periods 11 to 13, an applicant's revenue must have dropped by *more* than 10% to qualify for each of these three (3) Qualifying Periods.

The following Qualifying Periods remain for CERS applications:

- **Period 5:** January 17 to February 13, 2021 (deadline to apply: August 12, 2021);
- **Period 6:** February 14 to March 13, 2021 (deadline to apply: September 9, 2021);
- **Period 7:** March 14 to April 10, 2021 (deadline to apply: October 7, 2021);
- **Period 8:** April 11 to May 8, 2021 (deadline to apply: November 4, 2021);
- **Period 9:** May 9 to June 5, 2021 (deadline to apply: December 2, 2021);
- **Period 10:** June 6 to July 3, 2021 (deadline to apply: December 30, 2021);
- **Period 11:** July 4 to July 31, 2021 (applications open on August 1, 2021);
- **Period 12:** August 1 to August 28, 2021 (applications open on September 1, 2021); and

- **Period 13:** August 29 to September 25, 2021 (applications open on October 1, 2021).

Changes to the Subsidy Rate

Prior to the passage of the 2021 budget, eligible applicants could apply for a subsidy to cover up to 65% of their eligible expenses (up to a maximum of \$75,000 per location, or a maximum of \$300,000 if the applicant occupied multiple locations). In addition, applicants who were compelled to cease some or all business activities due to public health restrictions for a total of 7 or more days were eligible for an additional top-up subsidy of up to 25%, so long as they met certain qualifying considerations.

Now, following the passage of the 2021 budget, eligible applicants can only apply for the maximum subsidy of 65% until the end of Qualifying Period 10 (June 6 to July 3, 2021). The subsidy rate will then drop to a maximum of:

- 60% for Qualifying Period 11 (July 4 to July 31, 2021);
- 40% for Qualifying Period 12 (August 1 to August 28); and
- 20% for Qualifying Period 13 (August 29 to September 25).

Conclusion

While the federal government has extended the CERS rent relief program until September 25, 2021, it has begun to wind-down the program. Landlords and tenants alike should be aware of these changes commencing with the Qualifying Period beginning July 4, 2021, including the gradual decline of the amount of money available to applicants and the tightening of eligibility rules to require that applicants must have a revenue decline of *more* than 10% to qualify for the subsidy.

Specifically in Ontario, tenants who are receiving CERS funding (and landlords who have tenants receiving CERS) should also note the extension of the CERS program as it directly impacts on protections against landlords terminating a lease for non-payment of rent under Ontario's commercial eviction moratorium.

Should you have any questions about CERS or if you would like to discuss how we can help you with your commercial leasing needs, please reach out to Robert Eisenberg at reisenberg@weirfoulds.com or by telephone at 416-619-6287.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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Robert Eisenberg is a property development and commercial leasing lawyer who excels at identifying potential landmines and devising clear, creative, and proactive solutions.



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