



RTA handbook

For landlords and tenants
Residential Tenancies Act and Regulations

Alberta

This publication is intended to provide general information only and is not a substitute for legal advice.

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RTA Handbook for Landlords and Tenants *Residential Tenancies Act* and Regulations | Service Alberta and Red Tape Reduction

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INTRODUCTION

PURPOSE

This Handbook is designed to explain the rights and responsibilities of all tenants, landlords, and agents involved in renting residential premises in Alberta under the *Residential Tenancies Act* (RTA) and regulations:

- Residential Tenancies Ministerial Regulation
- Residential Tenancies Exemption Regulation
- Residential Tenancy Dispute Resolution Service Regulation
- Security Deposit Interest Rate Regulation
- Subsidized Public Housing Regulation
- Termination of Tenancy (Domestic Violence) Regulation

The Handbook will explain the minimum legislated requirements set out in the RTA. It provides landlords and tenants with options to deal with matters **not** established as minimum requirements and makes residential tenancy resource material available in a user-friendly format.

HOW TO USE THIS HANDBOOK

Words and terms that are commonly used in relation to tenancies and the RTA are defined in the Definition section at the beginning of this handbook. The sections include Statutory References, Guidelines, Practical Applications, and Forms information.

DISCLAIMER

As a Handbook on residential tenancy matters, this does not set out everything in the RTA, nor does it interpret the law. Landlords and tenants should refer to the RTA or get legal advice to determine their legislative rights and obligations. In every instance, the law as set out in the RTA supersedes anything in this handbook.

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DEFINITIONS

There are several words that are commonly used in the RTA, regulations, and in the rental business. Understanding what these words mean, and how they are used, is an important part of understanding what residential tenancies are all about.

These are plain language definitions for the commonly used terms in this guide.

A	
Abandon	An action of a tenant who leaves the residential premises before the end of the tenancy, without giving notice to the landlord that they are leaving.
Abandoned Goods	Any property a tenant leaves behind after they move out of the residential premises.
Abatement Of Rent	A reduction in the amount of rent a tenant is required to pay to the landlord. An abatement of rent can occur on a one-time-only basis; for a specified period of time; or be on-going.
Agent	<p>A person who has been given the authority by another person to undertake certain activities on their behalf.</p> <p>Examples include:</p> <ul style="list-style-type: none">• A leasing agent who is given the authority to enter into a residential tenancy agreement with a tenant on behalf of the landlord.• A building caretaker who is given the authority to enter the residential premises to make repairs on behalf of the landlord.
Agreement	See Contract definition.
Assign Or Assignment	<p>A person assigns their right or obligation to another person, or the written document that transfers a right or obligation.</p> <ul style="list-style-type: none">• An example is a tenant in a fixed term tenancy who wants to move out of the residential premises before the end of the residential tenancy agreement. The tenant finds someone else who will move in and take over the tenant's rights and obligations. The tenant wants to assign the residential tenancy agreement to this other person.
B	
Bailiff	See Civil Enforcement Bailiff definition.
Breach	<p>Refers to breaking, or not keeping, one or more of the promises a tenant and landlord made to each other in the residential tenancy agreement.</p> <ul style="list-style-type: none">• A breach can happen when either the tenant or the landlord doesn't do what they promised to do, or when they do something they promised not to do.

C	
Civil Enforcement Agency	<p>A person who is authorized under the <i>Civil Enforcement Act</i> to operate as a civil enforcement agency.</p> <ul style="list-style-type: none"> • Civil enforcement agencies are privately owned and operated bailiff companies. They are authorized by the Sheriff on behalf of the Minister of Justice to carry out court orders, which can include seizures on personal property, selling seized property, distributing proceeds from the sale of seized property, and evictions. • You can find a list of licensed Civil Enforcement Agencies on the Alberta Government website: https://www.alberta.ca/office-of-sheriff-civil-enforcement.aspx.
Civil Enforcement Bailiff	<p>A person who has been appointed by the Sheriff under the <i>Civil Enforcement Act</i>. A civil enforcement bailiff has the authority to seize property that belongs to someone who owes money once a court order is issued. Civil enforcement bailiffs are employed by or under contract to a civil enforcement agency and have the authority to carry out court orders, which may include seizing personal property, removing seized property, and carrying out evictions.</p>
Clear Days	<p>A reference in the legislation to notice requirements where it states “clear days” or “at least” means that the day the notice is given and the day the tenancy ends do not count as part of the days.</p> <ul style="list-style-type: none"> • For example, if a landlord gives the tenant notice on the 4th of the month, and the required notice period is 14 clear days, the earliest day the tenancy can end is the 19th of the same month.
Common Areas	<p>Those parts of the residential premises that can be used by all tenants and are under the control of the landlord.</p> <ul style="list-style-type: none"> • Common areas may include hallways, stairs, tenant storage rooms, parking areas, sidewalks, landscaping, and laundry rooms.
Consent	<p>To give permission, or the actual permission itself.</p> <ul style="list-style-type: none"> • An example of consent is that the landlord must give permission to the tenant before the tenant can change the locks to the residential premises. • Another example of consent would be the tenant giving permission to the landlord to enter the residential premises without notice to do an inspection or make repairs.
Contract	<p>The legally binding promises made by two or more people to each other, that each will do something.</p> <ul style="list-style-type: none"> • In a contract, there must be agreement by all persons on what they are promising each other. • Can be written or verbal. • The residential tenancy agreement is a contract. • People generally have to go to court to enforce contracts, but may have other dispute resolution options depending on the type of contract (see Residential Tenancy Dispute Resolution Service definition).

Control	<p>Refers to having the legal right to make a decision.</p> <ul style="list-style-type: none"> • An example of control is that the tenant can decide where to put their belongings inside the residential premises. • Another example is that the landlord can decide what colour to paint the outside of the building.
Court	<p>A place where judges apply the law to disputes and make legally binding decisions that the people involved in the disputes must follow.</p> <ul style="list-style-type: none"> • Examples of courts are the Alberta Court of Justice or the Court of King's Bench of Alberta.
Covenant	<p>A legally required promise identified in the RTA that a landlord or tenant must always keep, regardless of what the landlord and tenant agree to.</p>
D	
Damage	<p>Harm to property. The court or Residential Tenancy Dispute Resolution Service (RTDRS) decides if there has been damage and who caused it.</p>
Damage Deposit	<p>See "Security Deposit" definition.</p>
Damages	<p>Refers to the amount of monetary compensation for losses suffered, such as outstanding rent/utilities, unpaid bills or fees, property damage, etc. When the court or RTDRS decides there has been monetary losses, who caused it, and who is responsible to fix it, the court or RTDRS also determines how much the person responsible must pay in damages to the party who suffered the loss.</p>
Distrain, Distrain Or Distress	<p>The common law remedy of the landlord to seize the tenant's property through a civil enforcement agency when the tenant hasn't paid the rent.</p> <ul style="list-style-type: none"> • The landlord cannot use the remedy of distraint if the landlord has terminated the tenancy.
E	
Evict	<p>The procedure used to remove the tenant and their possessions from the residential premises when the tenant doesn't leave at the termination of tenancy.</p> <p>Note: this is not the same as "Terminating" a tenancy.</p>
Evidence	<p>Any type of proof presented by the landlord or tenant including:</p> <ul style="list-style-type: none"> • Written documents (tenancy agreement, receipts, letters, pictures, witness statements). • Photographs, video or audio recordings and other physical evidence. • Oral statements of the parties or witnesses.
Exclusive Possession	<p>Having possession, control and use of the residential premises that nobody else has (with the exception of other co-tenants, or the landlord in very limited circumstances).</p>

F	
Fixed Term Tenancy	<p>A tenancy that begins on a specific day and ends on a specific day and does not automatically renew.</p> <ul style="list-style-type: none"> • Neither the landlord nor the tenant has to give notice to the other party to end or vacate at the end of the term. <p>The landlord and tenant might enter into a new fixed term tenancy agreement, or they might agree to continue the tenancy without a fixed end date in which case the RTA says the tenancy automatically becomes a periodic tenancy.</p>
H	
Habitable	<p>The residential premises must be fit for someone to live in.</p> <ul style="list-style-type: none"> • The <i>Public Health Act</i>, Minimum Housing and Health Standards and other Regulations, Bylaws and Codes, all set out requirements for the condition of premises where people live. If these requirements are not met, then a Health Inspector may deem the premises not habitable.
Holiday	<p>New Year's Day, Alberta Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, or Boxing Day.</p> <p>In accordance with the <i>Interpretation Act</i>, if a due date under the RTA falls on a holiday or Sunday, the next business day becomes the due date, e.g., January 2 and July 2.</p>
I	
Inspection Report	<p>A written report that summarizes the inspections of the residential premises that the landlord and the tenant do together at the beginning and end of the tenancy. The report records the condition of the residential premises before the tenant moves in, and after they move out. The inspection report done at the beginning is often called the move-in inspection report, and the one at the end is often called the move-out inspection report. Landlords must properly complete both inspection reports to be allowed to keep any of the tenant's security deposit for damage done to the rental unit beyond normal wear and tear.</p> <p>The RTA says the inspection report must be in writing; that both the landlord and tenant should be present while it is completed; and that both should sign it after it is done.</p> <ul style="list-style-type: none"> • The RTA says the inspection report must include certain statements that must be signed within the report (see Section 4 of the Residential Tenancies Ministerial Regulation). • A landlord can do the inspection without the tenant being present if the landlord has offered the tenant two inspection times and the tenant does not agree to attend either time. • A copy of the move-in and move-out inspection reports must be given to the tenant as soon as they are completed.
L	
Landlord	<p>The legal owner of the residential premises, or some other person who has control of the residential premises.</p>

	<ul style="list-style-type: none"> • A property manager, leasing agent, caretaker, building manager, or any other person who controls whether someone can rent the place is a landlord. • A person who, in law, has the same rights as the landlord is a landlord. Examples include the heirs of the landlord; secured creditors acting on their security; or someone who obtains ownership from the landlord. • Any person who has a right of possession of the residential premises and the right to go to court to ask for enforcement of the landlord's rights is also a landlord. An example of this is a tenant who has entered into an agreement with the landlord to assume the role of landlord in renting out units within specified residential premises.
M	
Maintenance	Refers to looking after the residential premises. It includes keeping the premises reasonably clean and reporting any breakdown or damage to the landlord as it occurs. Generally speaking, unless the residential tenancy agreement says something different, the landlord is responsible for maintenance of the common areas and the tenant is responsible for maintenance of the inside of the residential premises. This generally does not include making repairs to the residential premises or taking steps to make sure the premises meets public health and minimum housing requirements, which are the landlord's responsibility.
Month-To-Month Tenancy	A periodic tenancy with no specified end date that automatically renews each month.
N	
Normal Wear And Tear	<p>The gradual worsening of the condition of property over time that happens even when the property is looked after properly and used normally.</p> <ul style="list-style-type: none"> • For example, even if walls are regularly washed and cared for, eventually over several years, they will have to be repainted. This is normal wear and tear. If the walls are not looked after, or holes are knocked in them, this is damage and not normal wear and tear. • Another example is that carpets wear out over time and require replacement even though they have been properly and regularly cleaned. This is normal wear and tear. Cigarette burns, oil stains, or pet stains in the carpet that require expensive cleaning or replacement of the carpet before it is worn out is damage and not normal wear and tear.
Notice	<p>A written document from the landlord to the tenant, or from the tenant to the landlord, addressing an occurrence under the residential tenancy agreement. A notice should always be written, show the date of the notice, and be signed by the person giving the notice.</p> <ul style="list-style-type: none"> • Examples of notices include a landlord's notice that they are going to enter the residential premises (see Notice of Entry definition), or a tenant's notice that they are ending a month-to-month tenancy.
Notice of Entry	A written notice that a landlord serves on a tenant when the landlord wants to enter the residential premises. Once a landlord has served the proper notice of entry at least 24 hours in advance, the tenant must allow the

	<p>landlord entry to the residential premises at the time, or within the timeframe specified in the notice of entry for the reason stated.</p> <ul style="list-style-type: none"> • The tenant can, of course, consent to the landlord entering the residential premises at any time. • The RTA says that a landlord does not have to give a notice of entry if the landlord has reasonable grounds to believe that there is an emergency in the residential premises, or that the tenant has abandoned the residential premises.
Notice of Objection To Termination	<p>A notice from the tenant to the landlord, or from the landlord to the tenant to object to a termination for substantial breach.</p> <p>The notice must:</p> <ul style="list-style-type: none"> • Be in writing. • State the reason for the objection. <p>This notice cannot be used to object to termination for non-payment of rent, assault, threats of assault, or significant damage to the premises; see TERMINATION OF TENANCY.</p>
Notice Of Objection To Seizure	<p>A form that the civil enforcement bailiff gives to the tenant when seizing something the tenant owns. The tenant can fill out the Notice of Objection to Seizure form and file it with the seizing civil enforcement agency within 15 days of the seizure.</p>
Notice Of Termination	<p>A notice that a landlord or a tenant serves on the other party to end the periodic tenancy.</p>
Notice To Vacate	<p>A notice that the landlord serves:</p> <ul style="list-style-type: none"> • On people who are not tenants and who are living in the residential premises with the tenant, and who are not authorized by the landlord to live in the residential premises (14-day notice). • On people who are not tenants and who are living in the residential premises after the tenant has abandoned the residential premises (48-hour notice).
O	
Order for Possession	<p>A document that a court or RTDRS gives to a landlord to direct a person to move out of the residential premises.</p>
Overholding Tenant	<p>A tenant who does not move out when the tenancy has ended, and no longer has a right to be there.</p> <ul style="list-style-type: none"> • An example is the tenant who stays after the fixed term tenancy has come to an end, and there is no periodic tenancy that allows the tenant to stay in the residential premises. • Another example is a tenant who does not obey a court or RTDRS order that says the tenancy is terminated. • Landlord obligations to tenants still apply to overholding tenants, including requirements regarding entry and changing locks, until the tenant is removed by the authority of civil enforcement under a court or RTDRS order.

P	
Peaceful Enjoyment	<p>The right of the tenant not to be significantly disturbed while living in the residential premises so long as they meet their obligations under the residential tenancy agreement.</p> <p>'Peaceful enjoyment' of the premises does not mean that your landlord guarantees that the property will always be quiet or peaceful. It means that your landlord will not interfere with your ability to live in and enjoy the property.</p> <p>Note: the landlord may enter the residential premises as per Notice of Entry requirements, providing the frequency does not significantly disturb the tenant's peaceful enjoyment of the premises.</p>
Periodic Tenancy	A tenancy that automatically renews at the end of each week, month or year, depending on the agreement, and does not have a set end date.
Prescribed	Detail that is stated in the Regulations. There are several instances in the <i>Residential Tenancies Act</i> that speak to something being prescribed. The Regulations are another form of law that is in addition to the law contained in the <i>Residential Tenancies Act</i> .
R	
Remedy	<p>A legal solution to a problem with another person. Landlords and tenants can apply to court or RTDRS to be awarded one or more remedies to address a problem they are having.</p> <ul style="list-style-type: none"> • An example is that the landlord can go to court or RTDRS and ask the court to award them an order of possession when the tenant has not paid the rent and will not move out. • Another example is when the tenant repairs something in the residential premises that the landlord ought to have fixed. The tenant can apply to court or RTDRS for an abatement of rent or payment for performing the landlord's obligations.
Rent	<p>Rent is anything a tenant pays to a landlord under a residential tenancy agreement, other than a security deposit. Rent is normally an amount of money that the tenant agrees to pay to the landlord on a certain day for each tenancy period (weekly, monthly, or yearly) that the tenant is living in the residential premises.</p> <ul style="list-style-type: none"> • Rent can be anything of value that the tenant gives to the landlord, and the landlord takes, to allow the tenant to live in the residential premises. • Rent also includes any "fees" or "surcharges" that must be paid by the tenant to the landlord.
Repair	<ul style="list-style-type: none"> • Fixing something that's either damaged or not working properly. It also means looking after the residential premises and the things in it so that they don't need fixing (keeping the place in good repair). • The residential tenancy agreement should state what the landlord is responsible for looking after and repairing, and what the tenant is responsible for looking after and repairing.

	<ul style="list-style-type: none"> • If the agreement does not speak to this issue, the landlord is usually responsible for the building structure (including windows, doors, walls, roof, ceilings, and floors), the plumbing, wiring, and heating and air conditioning (if there is any) and appliances provided by the landlord. This would also include the common areas unless the parties agree otherwise, which includes the hallways, utility and storage rooms, parking areas, sidewalks and landscaping (including lawn care and snow removal). • The tenant is responsible to keep the inside of the residential premises clean and not cause any damage. • The landlord is always responsible for making sure the residential premises meets public health requirements and minimum housing standards.
Repudiation, Repudiate	To refuse to perform the obligations owed to the other party under the contract, or residential tenancy agreement, or to completely reject the tenancy agreement after it is signed.
Residential Premises	The dwelling the tenant rents from the landlord to live in. For the purpose of this handbook, residential premises includes the yard of a single family, semi-detached or condominium dwelling, etc., and detached buildings, such as a garage or a storage building, that is for the exclusive use of the tenant.
Residential Tenancy Agreement	<p>The contract, sometimes called a lease, between the tenant and the landlord to rent residential premises.</p> <ul style="list-style-type: none"> • This agreement can be in writing; it can be in spoken words; or it can even be implied from the situation. • A verbal agreement is a contract between the landlord and the tenant that is not in writing. • An implied agreement is a contract that is not agreed to verbally or in writing by the landlord and tenant. They act towards each other in a way that is the same as if they did have an actual agreement.
Residential Tenancy Dispute Resolution Service (RTDRS)	An administrative tribunal that has similar authority to that of the Alberta Court of Justice under the RTA to resolve landlord and tenant disputes. The RTDRS provides landlords and tenants with a more accessible alternative to the courts for resolving disputes. After a landlord or tenant files an application, a Tenancy Dispute Officer hears the case and is authorized to make binding decisions on claims.
RTDRS Administrator Review	<p>Parties who have concerns or feedback regarding the quality of services, policies or procedures can submit a request for an RTDRS Administrator Review. In response to a request, the RTDRS Administrator can review the conduct of a Tenancy Dispute Officer in reference to the Code of Conduct. This review is not a replacement for an appeal, as the Administrator cannot rehear the application, nor overturn or change a TDO decision. The RTDRS Administrator will conduct a review after the hearing is concluded and the final order is issued, and typically responds in writing within 30 days. Additional information is available in the Rules of Practice and Procedure document at https://open.alberta.ca/publications/residential-tenancy-dispute-resolution-service-rules-of-practice-and-procedure.</p>

S	
Security Deposit	<p>Money or other items given by the tenant to the landlord at the beginning of the tenancy that is to be returned at the end of the tenancy. The security deposit, sometimes called damage deposit, is held by the landlord and applied against any damage caused by the tenant during the tenancy or any other agreed-to obligations of the tenant to the landlord. The security deposit can also be applied against the amount of rent owed and not paid at the end of the tenancy, but cannot be used to cover normal wear and tear in the residential premises.</p> <ul style="list-style-type: none"> • The security deposit cannot exceed the value of one month’s rent at the beginning of the tenancy. The landlord must hold security deposits in a separate bank account in trust for the tenant. The landlord must pay interest (as prescribed) on the security deposit either every year, or at the end of the tenancy. • The RTA says that, at the end of the tenancy, regardless of what is stated in the lease, the landlord cannot use any of the security deposit to pay for damage caused by a tenant beyond normal wear and tear, unless a move-in inspection report and a move-out inspection report have been completed. <p>(See SECURITY DEPOSIT section.)</p>
Seize	To take possession of personal property through a legal process.
Serve	<p>To deliver a document, usually a notice, to someone.</p> <p>The RTA requires notices, orders and documents to be initially served personally or by registered mail on the other party.</p> <p>If the landlord is unable to serve the notice on the tenant because the tenant is not at the residential premises or is evading service, the notice can be served:</p> <ul style="list-style-type: none"> • On any adult who apparently resides with the tenant, or • by posting it in a conspicuous place on some part of the residential premises, or • if a landlord or tenant cannot contact the other party in person, by registered mail or by posting a notice on the premises, as a last resort the notice may be sent through electronic means. The electronic method must result in a printed copy of the notice. • Sliding a notice under the door of residential premises does not meet the RTA requirements for serving notices. • Security deposit refund cheques and statements of account can be served personally, by registered mail, or if agreed to by both parties, by e-transfer.
Statement Of Account	<p>A written document that the landlord gives to the tenant that itemizes interest earnings and deductions related to the tenant’s security deposit. The landlord must provide the statement of account showing the actual expenses, or an estimate of the expected expenses, within 10 days of the end of the tenancy.</p>

	<p>If an estimated statement of account is initially provided within the 10 days, the final statement of account and any remaining balance must be provided to the tenant within 30 days of the end of the tenancy.</p>
Sublease or Sublet	<p>Leasing of the rental property by a tenant to a subtenant, and the tenant continues to be responsible for what happens in the rental property.</p> <ul style="list-style-type: none"> An example is a tenant in a fixed term tenancy who wants to move out of the residential premises before the end of the residential tenancy agreement. The tenant finds someone else who will sublet the rental property from the tenant and must get the landlord's written approval. Landlords are not allowed to refuse a sublease unless there are reasonable grounds for the refusal. The tenant remains responsible for the actions of the sublease person, including any damage to the rental unit or common areas, rent or utilities owing, etc.
Substantial Breach	<p>A breach of a covenant specified in the RTA. It can also be a series of breaches of the residential tenancy agreement that, added together, amount to a substantial breach or one serious breach of a covenant in the residential tenancy agreement, (see TERMINATION OF A TENANCY section).</p>
T	
Tenancy	<p>The legal right to live in residential premises that someone else owns. A feature of a tenancy is that the tenant has, in law, the exclusive use of the residential premises. If the tenant lives up to their end of the residential tenancy agreement, the landlord has no right to interfere with the peaceful enjoyment of the residential premises.</p>
Tenancy Month	<p>A period on which a periodic tenancy can be based. A tenancy month does not necessarily have to be a calendar month.</p> <ul style="list-style-type: none"> As an example, the tenancy month may run from the 1st day of the month to the end of the month, but it may also run from the 15th day of one month to the 14th day of the next month.
Tenancy Year	<p>A period on which a periodic tenancy can be based. A tenancy year does not necessarily have to be a calendar year.</p> <ul style="list-style-type: none"> As an example, the tenancy year may run from January 1st to December 31st, but it may also run from July 1st to June 30th.
Tenant	<p>A person, or persons, who have permission to live in someone else's premises because they have a residential tenancy agreement (written, verbal or implied). A tenant is also a person or persons who have permission to live in a place because of a sublet or assignment of a residential tenancy agreement. Included in the definition of tenant are the heirs of the tenant.</p> <ul style="list-style-type: none"> The RTA sets out certain instances when a tenant who is no longer living in the residential premises is still considered the tenant for such purposes as: the move-out inspection report, abandoned goods, recovery of damages and return of a security deposit.
Termination of Tenancy	<p>The end of the tenancy and the residential tenancy agreement.</p> <ul style="list-style-type: none"> In a fixed term tenancy, the termination date is specified in the tenancy agreement.

	<ul style="list-style-type: none"> In a periodic tenancy, the termination of tenancy happens when either the landlord or tenant gives the other party a proper notice of termination of the tenancy.
Trust Account	An account at a bank, treasury branch, credit union or trust corporation in Alberta specifically designated for holding funds in trust. Security deposits must be deposited into an interest-bearing trust account within two banking days after a tenant makes the payment to a landlord. Security deposit trust accounts must be at a bank, treasury branch, credit union or trust corporation and must contain only security deposit money.
U	
Unauthorized Occupant	A person who occupies a rental premises without being a signatory to a lease agreement and without the authorization of a tenant. See Notice to Vacate.
Unit	See Residential Premises definition.

RESPONSIBILITIES OF LANDLORDS AND TENANTS

STATUTORY REFERENCE

Residential Tenancies Act (RTA) sections

1(1)(f) landlord definition

1(1)(k) rent definition

1(1)(l) residential premises definition

1(1)(m) residential tenancy agreement definition

1(1)(n) security deposit definition

1(1)(p) substantial breach definition

1(1)(t) tenant definition

16 landlord's covenants

17 copy of agreement for tenant

19 inspection reports

21 tenant's covenants

22 assignment and sublease

23 entry of premises

24 locks and security devices

44 trust account

45 interest on security deposit

46 return of security deposit

Residential Tenancies Ministerial Regulation sections:

4 inspection report

GUIDELINES

The RTA states that a **landlord** may be:

- The legal owner of the residential premises, or some other person that has control of the residential premises.
- A property manager, leasing agent, caretaker, building manager, or any other person who controls whether someone can rent the place.
- A person who has the same legal rights as the landlord. Examples include the heirs of the landlord; secured creditors acting on their security; or someone who obtains ownership from the landlord.
- Any person who has a right of possession of the residential premises and the right to go to court to ask for enforcement of the landlord's rights is also a landlord. An example of this is a tenant who has entered into an agreement with the landlord to assume the role of landlord in renting out units within specified residential premises.

LANDLORD'S OBLIGATIONS

- Make the premises available for the tenant on the agreed move-in date.
- If a written residential tenancy agreement exists, provide a copy of that agreement to the tenant within 21 days after the day the Tenant signs the Agreement.
- **Not** to disturb the tenant's possession or peaceful enjoyment of the premises. This means that the landlord is **not** to bother the tenant beyond what is necessary and reasonable.
- Make sure that the residential premises meet the minimum requirements set out under the:
 - (a.) *Public Health Act*,
 - (b.) Housing Regulation, and
 - (c.) Minimum Housing and Health Standards, (can be found on the Alberta Government Open Data website at <https://open.alberta.ca/publications/minimum-housing-and-health-standards>)for the duration of the tenancy.
- Give the tenant a written "notice of landlord" within 7 days of the Tenant moving in or post the notice in a very visible place in the building's common area. The landlord **must** keep the notice up to date.
- Inspect the residential premises with the tenant within one week before the tenant moves in, and within one week (7 days) after the tenant moves out, and complete move in-and move-out inspection reports and provide copies to the tenant immediately on completion of the inspection. The landlord **must** give the tenant a signed copy of the inspection report and that report **must** comply with the required statements under the Regulations, (see **INSPECTION REPORTS**).
- If the locks are changed during the tenancy, provide a key to the tenant as soon as the change is done.
- Deposit all security deposits into an interest-bearing Trust Account at a bank, Treasury Branch, Credit Union or trust corporation in Alberta within two days of receiving the deposit, (see **SECURITY DEPOSITS**).

- If any interest is earned on a security deposit, pay the tenant interest on their security deposit annually, at the end of each tenancy year, unless both parties agree that it may be paid at the end of the tenancy.
- A new owner taking over a tenancy **must** give the tenant a notice of the owner's name, and a statement of the tenant's security deposit balance within a reasonable length of time. A reasonable length of time is not defined in the RTA; however, 7 days are suggested for consistency with the requirements for an existing landlord to provide a notice of landlord under section 18 of the RTA. This **must** be provided at no cost to the tenant.

THE RTA STATES THAT A TENANT MAY BE:

- A person, or persons, who have permission to live in someone else's premises because they have a residential tenancy agreement.
- A person or persons who have permission to live in a place because of a sublet or assignment of a residential tenancy agreement. Included in the definition of tenant are the heirs of the tenant.

The RTA sets out certain instances when a Tenant who is no longer living in the residential premises is still considered the tenant for such purposes as: the move-out inspection report, abandoned goods, recovery of damages and return of a Security Deposit.

TENANT'S OBLIGATIONS

- Pay rent when rent is due.
- Not in any significant manner interfere with the rights of either the landlord or other tenants in the premises or common areas of the property.
- **Not** do anything that would put other tenants or the residential premises or common property at risk (for example, **not** letting strangers into the building).
- **Not** perform illegal acts or do illegal business on the premises.
- **Not** commit a substantial breach of the residential tenancy agreement.
- Keep the premises reasonably clean.
- **Not** do, or permit damage to be done, to the residential premises.
- If the locks are changed during the tenancy, with the landlords consent, provide a key to the landlord.
- Move out when the residential tenancy agreement ends or is terminated.
- Obtain written permission from the landlord to sublet the residential premises.
- **Not** physically assault or threaten the landlord or another tenant.

The RTA permits an oral residential tenancy agreement. Landlords and tenants are cautioned that the terms and conditions of an oral residential tenancy agreement are difficult to "prove" in a court, or at RTDRS if a dispute arises between the parties. Any change that will become part of an existing residential tenancy agreement should be in writing and be signed by both parties. The date that the change becomes effective should be stated.

The landlord **must** give the tenant a copy of the agreement within 21 days after the Tenant signs and returns it to the landlord. If the landlord does **not** provide this signed copy to the tenant within the 21

days, the tenant is allowed to withhold payment of rent until a copy is received. Once the signed copy is delivered to the tenant, all the withheld rent is due and payable.

In addition to the rules in the residential tenancy agreement, the landlord may set up house rules for all the tenants. Both the landlord and tenant should have a copy of the rules. Some reasonable rules would be restricting real Christmas trees, pets, barbecues, satellite dishes, or smoking. Landlords can change or add rules during the tenancy with the written consent of the tenants, but otherwise cannot impose new rules on a tenant until the tenancy ends.

Tenants **must** get the written permission of landlords to sublet or assign the residential premises to another party. The landlord may **not** refuse permission without reasonable grounds. If the landlord decides against the sublease or assignment, the landlord **must** give the tenant a written reason within 14 days after receiving the request. If the landlord does **not** answer the request within 14 days, the tenant may assume that the landlord agrees to the sublease or assignment. The RTA prohibits a landlord from charging a fee for giving consent to an assignment or sublease of a residential tenancy agreement.

In a sublease, the original tenant intends to return to the residential premises and resume the residential tenancy agreement. The original tenant gives all the obligations and rights of the residential tenancy agreement to the new tenant, for a time. The original tenant is still responsible to the landlord if the new tenant does **not** fulfill the obligations of the contract.

In an assignment, the original tenant will **not** return to the residential premises. The original tenant assigns (gives) all the obligations and rights for completing the residential tenancy agreement to the new tenant. The new tenant becomes responsible for the residential tenancy agreement.

RESIDENTIAL TENANCY AGREEMENTS

The residential tenancy agreement, whether written or oral, **cannot** take away any of the rights, benefits, or protections for tenants stated in the RTA.

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

- 1(1)(e) fixed term tenancy definition
- 1(1)(f) landlord definition
- 1(1)(h) overholding tenant definition
- 1(1)(i) periodic tenancy definition
- 1(1)(k) rent definition
- 1(1)(l) residential premises definition
- 1(1)(m) residential tenancy agreement definition
- 1(1)(n), 43(1), 43(2) security deposit
- 1(1)(t) tenant definition
- 2 application
- 3 no waiver of rights
- 8 notice to terminate monthly tenancy
- 13 implied periodic tenancy

15 notice to terminate **not** required – fixed term tenancy

16 landlord's covenants

17 copy of agreement to tenant

18 notice of landlord

21 tenant's covenants

29 termination for substantial breach by tenant

38 possession unobtainable

Residential Tenancies Ministerial Regulation sections:

3 Rent increase – agreements cannot allow rent increases more often than once every 365 days.

GUIDELINES

Renting residential premises is a business agreement between the landlord(s) and the tenant(s). Landlords and tenants agree to the terms of their business agreement in a contract called a residential tenancy agreement. This residential tenancy agreement can be written, oral or implied. It is recommended that the agreement be written so both parties have a record of what is expected.

Like other contracts, the residential tenancy agreement outlines the terms of the relationship that will exist between the landlord and the tenant. It also sets out any conditions that have been agreed to by the landlord and the tenant. For example, it should include the rent amount, the services provided by the landlord and the responsibilities of both parties. Tenancy agreements may not address all issues, but will generally cover the most relevant ones.

The tenant has the option of refusing to enter into a residential tenancy agreement that contains conditions they do **not** want to live by. The tenant may negotiate changes to the tenancy agreement or may choose to rent elsewhere.

Once the landlord and the tenant both agree to the terms and conditions of the contract, it **cannot** be changed unless both parties agree or where allowed by legislation.

The RTA applies to tenants who rent residential premises, such as houses, apartments, mobile homes, and duplexes. It also applies to rooming house and boarding house residents where the landlord provides both the room and meals, as long as the landlord does **not** reside in the residential premises. If a tenant pays to rent living space in a hotel or motel, etc., the RTA applies if the tenant lives there for more than six consecutive months. If an employer rents residential premises to an employee, the RTA applies.

The RTA does not apply to:

- Mobile home sites covered in the *Mobile Home Sites Tenancies Act*.
- Business premises with living premises attached and rented under a single agreement.
- Rooms in the living quarters of a landlord, if the landlord actually resides there.
- Residential premises on military bases on federal lands.
- Residential premises on First Nations reserves on federal lands.
- Student premises at educational institutions if students do **not** have exclusive possession of a self-contained dwelling.

- A nursing home as defined in the *Nursing Homes Act*.
- Lodge accommodation run by a management body or by an agreement with the Minister responsible for the *Alberta Housing Act*.
- A supportive living accommodation licensed under the *Supportive Living Accommodation Licensing Act*.
- A correctional institution, or
- any other prescribed premises, which currently are the following:
 - (a.) An approved hospital as defined in the *Hospitals Act*.
 - (b.) A provincial cancer hospital operated by the Provincial Cancer Hospitals Board under the *Cancer Programs Act*, and

The **Banff Housing Corporation** may refuse to give its consent to the assignment or sublease of a residential tenancy agreement under section 22(3) of the RTA if:

- The assignment or sublease is to a person who does **not** qualify as a bona fide resident under the terms of that agreement.
- The assignment or sublease is to a person who does **not** meet the eligible resident requirements defined in the National Parks of Canada Lease and Licence of Occupation Regulations SOR/2002-237 under the *Canada National Parks Act* (Canada).
- The tenant has **not** obtained the consent in writing of the Minister of Environment and Climate Change of the Government of Canada, or
- the Banff Housing Corporation has reasonable grounds to believe that the assignment or sublease is to a person who does **not** meet the Corporation's qualification requirements to acquire an interest in a residential tenancy agreement.

NOTE: The *Residential Tenancies Act* (RTA) applies to residential sub-leases entered into by the federal Crown's tenant (landlord as defined by the RTA) and their tenant (sub-lessee) in National Parks for non-land related provisions. Whether a remedy sought by a landlord or tenant is land related or non-land related will have to be determined in each case as it may arise from time to time before the courts.

To reduce the possibility of misunderstandings between the landlord and tenant, a residential tenancy agreement should be in writing and contain the following information:

1. Date of agreement.
2. Names and addresses of all parties.
3. Address or description of the location of the residential premises.
4. Term of the tenancy.
5. Rent amount, where, when and how it is to be paid.
6. Clauses about whether utilities, furniture, appliances, parking, etc. are provided and at whose expense.
7. Names of the people who are permitted to live in the residential premises.
8. Security deposit amount, authorized deductions and interest.
9. Care, maintenance and repair responsibilities.
10. Insurance requirements.
11. Rules for additional fees (such as NSF charges), guests, pets, etc.
12. Signatures of the landlord and tenant.

If a written residential tenancy agreement is dated August 1, 1992 or later, the agreement **must** contain the following statement in print larger than the other print in the agreement:

“The tenancy created by this agreement is governed by the *Residential Tenancies Act* and if there is a conflict between this agreement and the Act, the Act prevails.”

For example, if a residential tenancy agreement states a tenant must give two months’ notice of termination for a monthly periodic tenancy agreement, this clause would conflict with the legislation. The RTA states that a monthly periodic tenant is required to give only one month’s notice.

Another conflict with the legislation would be if a residential tenancy agreement states that the tenant will have to move out immediately if the rent is **not** paid in full and on time. If tenants do **not** pay the rent, the RTA allows landlords to apply to court or RTDRS for an order terminating the tenancy and an order of possession or landlords can give tenants a 14-day notice to terminate the tenancy for substantial breach. If the tenant pays the rent before the 14 days are up, the notice to terminate is **not** binding and is no longer effective. A tenant **cannot** object to a 14-day notice that is for non-payment of rent.

If the tenancy agreement is in writing, the landlord **must** give the tenant a copy of the agreement within 21 days after the tenant signs and returns it to the landlord. If the landlord does **not** provide this signed copy to the tenant within the 21 days, the tenant is allowed to withhold payment of rent until a copy is received.

The RTA requires a “notice of landlord” to be given to the tenant within seven days after the tenant takes possession of the residential premises. The “notice of landlord” **must** contain the name of the landlord and a postal address and physical location in Canada for that person. This information can be included in the residential tenancy agreement.

If the name, postal address or physical location of the landlord changes, the landlord must provide all tenants with a new written notice of landlord, which **must** contain all three elements to meet the requirements of the RTA. The landlord **must** either give a copy to each tenant, or, in the case of projects with common areas, display a new notice where all the tenants can see it. The landlord **must** ensure that the notice, if placed in a common area, is replaced whenever the landlord becomes aware that the notice has been removed.

Tenants and landlords should make a habit of keeping a written record of every instance when there is a problem with the other party, what was done by both of them when the problem happened, and how they each responded.

A landlord may choose to offer an abatement of rent to a tenant to compensate the tenant for doing maintenance for the residential premises. This agreement should be in writing to protect both parties.

In Alberta, all landlords and tenants have responsibilities (obligations). The RTA clearly identifies these obligations, and they apply to every residential tenancy agreement in Alberta, whether or **not** they are mentioned in the terms and conditions of the lease agreement, (see **RESPONSIBILITIES OF LANDLORDS AND TENANTS SECTION**).

PRACTICAL APPLICATIONS

FIXED TERM TENANCY

A fixed term tenancy ends on the date specified in the residential tenancy agreement. No notice must be given by the landlord or tenant to end a fixed term tenancy. It is courteous for the tenant and the landlord to provide the other party with a notice prior to moving out, but landlords and tenants cannot require that the other party provide notice. No time frame is required for such a courtesy notice.

At the end of the fixed term, the landlord and tenant may both want to continue the tenancy. At, or before this time, they can negotiate a new residential tenancy agreement that could include a change in the rent amount and the conditions of the tenancy, provided the tenant has been in the unit at least 365 days or it has been at least 365 days since their last rent increase. This agreement can be a new fixed term or change to a periodic tenancy.

If the parties do **not** notify each other of their intention to continue or terminate the tenancy, difficulties may arise. For example, the landlord may expect the tenant to leave at the end of the fixed term and may have plans for the premises, while the tenant may incorrectly assume they can continue living there.

If the tenant continues to live in the premises after the fixed term agreement ends and the landlord continues to accept their rent payments, but no new residential tenancy agreement is signed, the tenancy becomes a periodic tenancy. Once this occurs, the tenant is required to give the landlord proper notice to terminate the tenancy. The landlord would also only be able to terminate the tenancy in limited circumstances.

OVERHOLDING TENANT

If the tenant stays in the premises after the end of a tenancy without the landlord's approval, the tenant becomes an overholding tenant. The landlord can apply to the courts or RTDRS for an Order for Recovery of Possession of the property from an overholding tenant, then have a civil enforcement agency evict the tenant from the property.

IMPLIED PERIODIC TENANCY

If a tenant on a fixed term tenancy stays in the premises after the end of the fixed term period with the implied consent of the landlord, the tenancy continues as a periodic tenancy. If the fixed term was for one month or more, the tenancy becomes a monthly periodic tenancy. If the fixed term was for less than one month, the tenancy becomes a weekly periodic tenancy.

The rules of periodic tenancies then apply to this tenancy. If the tenant or the landlord wants to terminate the agreement, they will have to give the proper notice. Landlords are also restricted in the reasons for which they can terminate a periodic tenancy.

PERIODIC TENANCY

A periodic tenancy is a tenancy that continues without notice, and typically renews automatically on a weekly, monthly or yearly basis. The termination and rent increase provisions contained in the RTA apply to the tenancy.

ADDITIONAL FEES AND CHARGES

The RTA does **not** prohibit the landlord and tenant from agreeing to fees and charges in addition to the security deposit and rent. The residential tenancy agreement should state any additional fees or charges, the circumstances that will give rise to them, and whether they are refundable or non-refundable. It is a good idea for landlords to give receipts for any payments from tenants, (see **RESIDENTIAL TENANCY AGREEMENTS – FEES AND CHARGES SECTION**). Everything the tenant pays to the landlord that is not refundable under the tenancy agreement counts as “rent” for the purposes of the RTA.

A landlord **cannot** charge a security deposit plus an additional refundable “deposit” if the total amounts of all refundable deposits exceed the amount of the first month’s rent. All refundable fees or deposits count as the “security deposit” under the RTA, regardless of what they are called in the agreement.

FORMS

Residential Tenancy Agreement forms are available at a nominal cost from the Calgary Residential Rental Association or the Alberta Residential Landlord Association.

Since the RTA does **not** require a particular form of residential tenancy agreement, landlords and tenants are free to use whatever form best suits their particular needs. However, the agreement **cannot** take away any of the rights, benefits or protections contained in the RTA.

(See the **RESOURCES AND REFERRAL INFORMATION** section for contact information for organizations that sell pre-printed Residential Tenancy Agreement forms.)

Sample notice forms are included in the Residential Tenancies Ministerial Regulation, but are not mandatory.

INSPECTION REPORTS

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections

1(1)(f) landlord definition

1(1)(j) prescribed definition

1(1)(l) residential premises definition

1(1)(m) residential tenancy agreement definition

1(1)(n) security deposit definition

1(1)(t) tenant definition

19 Inspection report

46 return of security deposits

Residential Tenancies Ministerial Regulation section:

4 inspection reports

GUIDELINES

The RTA says it is mandatory for landlords and tenants to complete both a move-in and move-out inspection report. Some other documents, like a written residential tenancy agreement are recommended, but are **not** required. Completing written inspection reports is mandatory. The landlord

must always give the tenant a copy of the inspection report at the conclusion of the inspection and **must** also keep a copy on file.

The landlord **must** keep inspection reports for at least three years after the tenancy ends. The landlord **must** allow the Director of Residential Tenancies, as defined in the RTA and named by the Government of Alberta, or an authorized person delegated by the Director, to look at these reports for the purpose of either an inspection or an investigation.

A landlord can only make deductions from a tenant's security deposit to pay for damage to the residential premises if the landlord and tenant completed written move-in and move-out inspection reports, (see **SECURITY DEPOSIT** section). These inspection reports **must** be done within one week before or after the tenant moves in, and within one week before or after the tenant moves out.

The inspection report **must** include certain statements as required by the [Residential Tenancies Ministerial Regulation](#) (refer to the Regulation for the specific wording):

1. The date the inspection was conducted, the names of the people present during the inspection, and the landlord's signature.
2. A statement to be signed by the tenant if they agree with the results of the inspection.
3. A statement to be signed by the tenant if they disagree with the results of the inspection, and the reasons they disagree.
4. A statement to be signed by the landlord indicating the tenant refused to sign the tenant's statement, if the tenant refuses to sign the inspection report.
5. A statement to be signed by the landlord indicating that the inspection was done without the tenant if the tenant was **not** present when the inspection was conducted.
6. A statement saying the inspections should be conducted when the premises are vacant unless the landlord and tenant both agree to do the inspections while the rental premises are occupied.

The move-in inspection report that is completed at the beginning of the tenancy indicates that both the landlord and tenant are aware of the condition of the residential premises. When compared with the move-out inspection done at the end of the tenancy, it provides evidence of any change that has happened to the condition of the residential premises during the tenancy.

A landlord can conduct the inspection without the tenant being present if the landlord has offered the tenant two inspection times and the tenant has refused or did **not** attend either date offered. The landlord **must** offer the tenant inspection times between 8 a.m. and 8 p.m., on two different days that are **not** holidays. If a landlord does an inspection report when the tenant is **not** there, the tenant should carefully review everything in the report when they get their copy and add their own comments, if any, on a separate sheet of paper.

The inspection report should list what's in the residential premises – for example, the condition of the walls, floors, ceilings, windows, cupboards, appliances and plumbing fixtures. Taking pictures or a video that is kept with the copy of the inspection report is also useful, though not required. The inspection report should say what needs to be fixed and cleaned, and who will be responsible for looking after each item.

A tenant is responsible for ordinary cleaning and for cleaning the results of extraordinary or abnormal use, (see the "**SAMPLE CLEANING LIST**" in this section); however, the landlord cannot make deductions from the security deposit for cleaning unless the tenant had agreed to this. Some examples of damage to the physical condition of rental premises for which deductions can be made when inspection reports are properly completed are:

- steam cleaning of rugs with obvious dirt, soil, oil or urine stains,

- badly repaired or unrepaired holes in walls or floors,
- pushed in door panels,
- food, dirt or nicotine on walls, cupboards or appliances,
- broken glass,
- holes in window screens,
- tears or burns on carpets,
- damage to fixtures or appliances.

A landlord can deduct for damage to the premises beyond normal wear and tear as long as the inspection reports were completed and reflect conditions agreed to by the tenant, and the landlord issues a statement of account in accordance with the RTA.

Landlords can also make deductions from the security deposit for repairs or cleaning for which the tenant agrees to take responsibility either in the lease agreement or the move-out inspection, such as:

- Professional shampooing of rugs when there were no excess foreign materials.
- Professional cleaning of drapes when there were no excess foreign materials.
- Painting walls when there were no obvious stains or damage caused by the tenant.

A landlord **cannot** make deductions from a security deposit to restore or repair normal wear and tear, even if the residential tenancy agreement says differently. The RTA protects the security deposit from deductions for normal wear and tear by requiring landlords to complete move-in and move-out inspection reports. These reports allow the landlord and tenant to determine whether there are repairs needed. If the inspection reports are **not** completed, the landlord is **not** entitled to take money from the security deposit to cover repair expenses.

If repairs are required, but the landlord did **not** do the required inspection reports, the landlord can apply to court or RTDRS for a judgment for the debt owed by the tenant.

The security deposit can be used to cover the arrears or other charges even if inspection reports have **not** been completed. If there are rent arrears or other charges, like NSF fees, that do **not** relate to the condition of the residential premises, the security deposit can be used to cover the arrears or other charges.

If a landlord believes the tenant has abandoned the residential premises, the landlord **must** still make a reasonable effort to contact the tenant and arrange the move-out inspection. The landlord should keep a record of the attempted contacts.

A new landlord **cannot** deduct from a security deposit for damage to the property if the previous landlord did **not** complete a move-in inspection report. A new landlord is responsible for getting copies of all tenancy documents, including inspection reports, from the previous landlord.

The move-out inspection report **must** be done within one week before or after the tenant moves.

The landlord must document the inspection and give a copy to the tenant at the conclusion of the inspection. As noted previously, a landlord is required to keep a copy of the inspection reports for at least three years after the termination of the tenancy. A landlord **must** make the inspection reports available for inspection by the Director of Residential Tenancies or an authorized person for the purposes of an inspection or investigation.

FORMS

Inspection Report forms for both the move-in and move-out inspections are available at nominal cost from the Calgary Residential Rental Association or the Alberta Residential Landlord Association. The forms are useful because they contain all the statements required by the Residential Tenancies Ministerial Regulation, they have both the move-in and move-out inspections contained in the one form for ease of comparison, and they are printed in duplicate so there are copies for both the landlord and the tenant, (see the **RESOURCES AND REFERRAL INFORMATION** section for contact information for these organizations).

SAMPLE CLEANING LIST

The tenant should always check with the landlord to see if they have a cleaning list. If the landlord has **not** provided a cleaning list, the following is a suggested cleaning list for tenants to use before they vacate. It is important to note that a landlord cannot deduct from a security deposit for cleaning expenses unless the lease agreement includes a commitment by the tenant to clean the premises at the end of the tenancy, but the tenant did not, or the tenant agreed to cover additional cleaning expenses in the move-out inspection report. The landlord can always apply to court or RTDRS to recover cleaning expenses that cannot be deducted from the security deposit.

- Clean in, out, behind and under the fridge and defrost and clean the freezer.
- Leave the fridge door open if the power has been turned off.
- Clean in, out, behind and under the stove and clean the oven and burners on the stove.
- Wash the cupboards inside and outside.
- Clean inside and outside of all windows/tracks, closet doors/tracks and patio doors/tracks.
- Wash walls and floors.
- Dust curtain rods and window coverings or replace with those supplied by the landlord.
- Dust or wash fans and vents, light fixtures, replace burnt out light bulbs.
- Check the smoke detector, replace batteries as needed.
- Clean bathroom thoroughly including the tub, tile, sink, vanity, mirror, medicine cabinet, cupboards and toilet.
- Vacuum and clean the carpets, if necessary.

SECURITY DEPOSIT

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

1(1)(f) landlord definition

1(1)(k) rent definition

1(1)(l) residential premises definition

1(1)(m) residential tenancy agreement definition

1(1)(n) security deposit definition

1(1)(t) tenant definition

19 inspection report

43 amount of security deposit

44 trust account

45 interest on security deposits

46 return of security deposits

47 obligations and rights of new landlord

Residential Tenancies Ministerial Regulation sections:

1(c) security deposit trust account definition

4 inspection reports

7 trustee of security deposit trust account

Security Deposit Interest Rate Regulation (all sections)

GUIDELINES

A landlord can ask a tenant to pay a security deposit, which is money paid by a tenant in addition to the rent that is due. The landlord holds the deposit in trust as security for damage, cleaning expenses, unpaid rent or other obligations the tenant may have to the landlord. A security deposit is sometimes referred to as a damage deposit. The tenant's basic obligations are to look after the residential premises and pay the rent when it is due. If no rent is owing, no damage has been done, the residential premises has been cleaned, and the tenant has fulfilled all of their obligations under the tenancy agreement, the money **must** be returned with interest (if applicable) within 10 days after the tenant moves out.

The security deposit should not be automatically used as the last month's rent, as its purpose is to cover damages or outstanding amounts the tenant may owe at the termination of the tenancy. Using the security deposit as the last month's rent will mean the landlord must take additional steps to recover their losses as a result of damage to the unit beyond normal wear and tear caused by the tenant or other extraordinary losses incurred by the landlord as a result of the tenant's actions.

SECURITY DEPOSIT DEFINITION

A landlord can collect a security deposit at the beginning of the tenancy. A security deposit can be money, property or right paid or given by a tenant that is agreed to by the landlord and the tenant. The security deposit amount should be listed in the tenancy agreement, which should be in writing. The security deposit includes any refundable fees the landlord requires the tenant to pay.

The purpose of a security deposit is:

- To cover the expenses incurred by the landlord in repairing or replacing physical damage to premises. This does **not** include repairing or replacing anything as a result of normal wear and tear.
- To cover the landlord's cleaning expenses because of extraordinary or abnormal use. This does **not** include cleaning associated with normal wear and tear.
- To cover any arrears of rental payments.
- To cover other amounts agreed to by the tenant in the residential tenancy agreement, such as legal fees, utilities, late fees, cleaning fees, etc.

AMOUNT OF SECURITY DEPOSIT

A security deposit **cannot** exceed what the tenant would pay for the first full month of the residential tenancy agreement. It **cannot** be increased at any time during the tenancy, even if the monthly rent is

increased later, (see the next section “**INCREASE OF SECURITY DEPOSITS**”). If a residential tenancy agreement contains a clause that requires a security deposit and refundable fees in excess of one month’s rent, that clause is illegal and unenforceable. The tenancy agreement **cannot** take away the rights provided by the RTA.

It is recommended that a landlord should give a tenant a receipt for the security deposit and any other payments that are received from the tenant. However, the RTA does **not** require the landlord to provide receipts.

A refundable fee or charge is part of the security deposit. A landlord **cannot** charge additional refundable fees, e.g., for an extra parking stall, if the total of the security deposit and the additional refundable fees to be paid by the tenant exceeds one month’s rent (see **RESIDENTIAL TENANCY AGREEMENTS ~ FEES AND CHARGES** section).

A non-refundable fee or charge that is agreed to in the residential tenancy agreement is **not** subject to the security deposit restrictions and is considered part of the rent. Non-refundable fees **cannot** be deposited into the security deposit trust account. For example, if a landlord charges \$100 per pet as a non-refundable fee for the privilege of having a pet in the premises, this fee will **not** be held by the landlord as security and will **not** be returned to the tenant. Therefore, this fee is **not** a security deposit as defined by the RTA.

Some residential tenancy agreements include a “late rent charge”. If the tenant does **not** pay the late rent charge and if the charge is reasonable, the landlord is entitled to deduct the charge from the tenant’s security deposit at the end of the tenancy.

INCREASE OF SECURITY DEPOSITS

A security deposit **cannot** be increased during a tenancy for any reason.

PERIODIC TENANCY

If a periodic tenancy agreement has a “0”, “nil”, or “zero” in the space for the security deposit, or, if the space is blank, a landlord **cannot** later charge a security deposit as this would be an “increase”.

For example, if a tenant paid a security deposit of \$800 two years ago, and the rent has since increased on two occasions, first to \$825 and now to \$850, the amount of the security deposit **must** stay at \$800.

If a tenant and landlord expressly state or imply that they intend that the tenancy be renewed or continued after the end of the fixed term tenancy, without signing a new tenancy agreement, the RTA states that the tenancy automatically continues as a periodic tenancy (see **IMPLIED PERIODIC TENANCY**). The security deposit increase rules for periodic tenancies then apply to this tenancy.

FIXED TERM TENANCY - RENEWAL

If a fixed term tenancy has a clause allowing it to continue as a periodic tenancy after the fixed term expires, or the landlord and tenant later agree or behave in a way that indicates the tenancy will continue, the security deposit **cannot** be increased as this is considered the same tenancy. In this case, all of the conditions of the tenancy would stay the same except the term.

FIXED TERM TENANCY – NEW AGREEMENTS

Both parties can negotiate and agree to enter into a new fixed term tenancy agreement that contains provisions for an increase in the rent and security deposit. If the rent is decreased under a new tenancy agreement, any rent paid during the term of the new agreement in excess of the decreased amount must be returned to the tenant.

TRUST ACCOUNT

All security deposits collected since August 1, 1992 **must** be deposited in an interest-bearing trust account. The security deposit **must** be deposited into the trust account within two banking days after the tenant makes the payment to the landlord. Security deposits received before August 1, 1992 can be deposited in the trust account, but it is **not** required by the RTA. The trust account has to be at a bank, treasury branch, credit union or trust corporation and **must** contain only security deposit money.

The landlord is the trustee for the tenant's security deposit money and the trust account name **must** include the words "in trust". The name on the account may refer to the landlord's name, the building name or the tenant's name, etc. An example is "ABC Rental Company, in trust".

INTEREST ON DEPOSITS

Interest on the security deposit **must** be paid to the tenant annually unless the landlord and tenant agree in writing that it will be paid when the tenancy ends. The interest **must** be compounded annually on the anniversary date of the tenancy if it's **not** paid annually to the tenant.

The rate of interest to be paid is set annually by the Government of Alberta. The formula for setting the yearly interest rate payable on security deposits is 3% less than the cashable one-year guaranteed investment certificates rate in effect on November 1st of the previous year offered by Alberta Treasury Branches Financial.

A landlord may agree in a residential tenancy agreement to pay a higher interest rate. The landlord is then bound to pay the tenant interest on the security deposit and the compounding interest at the higher rate.

SECURITY DEPOSIT INTEREST CALCULATOR

The Service Alberta and Red Tape Reduction website contains an online calculator that is programmed to calculate the interest payable on security deposits at the prescribed annual rates. The calculator and current security deposit interest rates are available at: <http://www.servicealberta.gov.ab.ca/interest-chart.cfm>.

RETURN OF SECURITY DEPOSITS

The security deposit is considered "delivered" to a tenant on either the date it is handed to the tenant, or his agent, or the date of the postmark. The security deposit refund and statement of account, if there are any deductions, **must** be delivered or postmarked within 10 days of the day the tenant gave up possession of the residential premises.

When multiple tenants are on a single agreement, a landlord **must** return the security deposit through a cheque made out to all tenants and **not** to one particular tenant. The RTA is specific in requiring the security deposit be returned to the tenant and, in the case of multiple tenants on the same agreement, every tenant is equal.

A landlord is entitled to deduct the cost of cleaning above and beyond normal wear and tear if the tenant agreed to this as a condition of the tenancy agreement, as well as for repairing or replacing damaged property to the residential premises. The RTA defines normal wear and tear as the deterioration that occurs over time with the use of the premises, even though the premises receive reasonable care and maintenance.

If there is any rent due and owing at the end of the tenancy, that amount can also be deducted from the security deposit if the tenant has agreed to this. Some tenants "fail" to pay the rent for the last month of the tenancy, assuming that the landlord can use the security deposit to cover the last month's rent. This

reasoning is incorrect and will almost always lead to additional cost and expense for both the landlord and the tenant if the matter ends up in court or before the RTDRS.

If a tenant does **not** pay rent for the last month, a landlord can:

- Serve a tenant with a clear 14-day eviction notice for non-payment of rent.
- Obtain a Distress for Rent through a civil enforcement agency, which involves seizing the tenant's belongings to cover the rent owing (for more information, please speak to a Civil Enforcement Agency or seek legal advice), or
- request an Order for Recovery of Possession through the courts or RTDRS, if the tenant refuses to vacate after the tenancy is terminated for nonpayment of rent.

If the landlord is entitled to be reimbursed for repairs or any other expenses according to the conditions the tenant agreed to, and the security deposit **cannot** cover those amounts, the landlord can apply to court or the RTDRS to recover the expenses from the tenant. If there are other amounts set out in the residential tenancy agreement that are due and owing by the tenant, such as legal fees, utilities, late fees, etc., they can also be deducted from the security deposit.

A landlord **must**, within 10 days of the tenant giving up possession of the residential premises, either pay the security deposit plus interest (if applicable) to the tenant, or provide a statement of account that shows what the expenses were, or provide an estimate of what the expenses are expected to be along with any amount of the deposit that the landlord does not intend to use. A final statement of account and any remaining balance **must** be provided to the tenant within 30 days after the tenancy ends.

The statement of account should show the tenant's name, address of rental premises, amount of security deposit, accrued interest, deductions from the deposit and the balance being returned, if any, or the amount owing if a negative balance.

A landlord can return a security deposit to a tenant in several ways. If it is delivered in a manner other than in person or by mail (for example, such as by e-transfer), that method of delivery must be agreed to in writing between the landlord and tenant. The written agreement does not need to be a formal document and could include email or text message. If there is a written agreement, and the landlord returns the deposit by e-transfer, they must also deliver a statement of account either electronically, in-person or by mail if any deductions have been made.

Landlords can also provide the refund either in-person or by mail, along with any required statement of account. If returning the security deposit by mail, it should be sent to the tenant's forwarding address. If there is no forwarding address, the landlord must attempt to locate the tenant. The landlord should mail the refund/statement of account to the last known address of the tenant, which may be the rented premises. If the mail is returned as undeliverable, the landlord must then keep the item for their records. The envelope should be unopened as it shows that the contents are intact.

If no forwarding address was left with the landlord, the landlord is responsible for attempting to locate the tenant. The cheque/statement of account is to be mailed to the last known address of the tenant, which may be the rented premises. If the mail is returned as undeliverable, the landlord is to keep the returned item for their records in order to prove they tried to comply with the legislation. The landlord is not entitled to keep the security deposit money for themselves if it is undeliverable to the tenant.

Landlords must keep security deposit records that show the following for each tenant for at least three years after the expiration or termination of the tenancy:

- The date of receipt of a security deposit by the landlord and the amount of the security deposit.
- The date on which the security deposit was deposited in a financial institution and the name and location of the financial institution.
- Particulars of the interest payable and paid to the tenant.
- Particulars of the disposition of the security deposit under section 46, including the manner in which the security deposit or part of it was delivered to the tenant, and
- Make the security deposit records available for inspection by the Director or an authorized person for the purposes of an inspection or investigation.

If the tenant does **not** receive either the security deposit, a statement of account or an estimated statement of account within the 10 days after they leave, the tenant should immediately contact the landlord, in writing (and keep a copy), requesting the security deposit and a statement of account. A tenant may proceed through the courts or RTDRS to get the security deposit back if:

- A tenant still does **not** get anything from the landlord after requesting it, or
- a landlord deducts amounts from the security deposit for things unrelated to damage to the premises that were **not** specified in the residential tenancy agreement.
- A landlord deducts amounts from the security deposit that were for normal wear and tear, and/or
- the requirements for inspection reports were **not** complied with.

A landlord can also proceed through the courts or RTDRS for remedy.

OBLIGATIONS AND RIGHTS OF NEW LANDLORD

Any person who acquires the landlord's interest in the residential premises is subject to the same rights and obligations concerning security deposits as the previous landlord.

In the event that the landlord of the residential premises changes, the new landlord has to deposit any security deposits that are turned over by the prior landlord, into a new security deposit trust account.

If the prior landlord does **not** turn the security deposits over, the new landlord is still responsible for the security deposit refunds. The RTA requires the new landlord to refund the deposits at the end of the residential tenancy agreement. Failure to receive the security deposits from the prior landlord or owner **cannot** be used as grounds for non-return of a security deposit.

For example, if the apartment building goes into foreclosure and the receiver-manager or new owner takes over, the receiver-manager or new owner is responsible for carrying out a landlord's obligations, including refunding security deposits at the end of the residential tenancy agreement.

A buyer of the residential premises is also fully responsible for the security deposit paid by the tenant.

The new landlord is required, within a reasonable time and at no cost to the tenant, to give the tenant a statement setting out the amount of the security deposit and interest that has accumulated as of the date title transfers.

CANADA DEPOSIT INSURANCE CORPORATION (CDIC ACT) POOLED TRUST ACCOUNTS

The RTA requires security deposits to be placed into interest bearing trust accounts in Alberta within two banking days of receipt. Only security deposit monies can be placed in this trust account. Security deposit trust accounts with banks, trust companies and loan companies are insured to a limit of \$100,000.

The insurance protection for funds deposited in banks, trust companies and loan companies is provided by the *C.D.I.C. Act*. Funds on deposit are insured up to a limit of \$100,000 in the event of failure of a financial institution. The *C.D.I.C. Act* does **not** cover funds on deposit with a credit union or Alberta Treasury Branch. However, the Alberta Government, through the Credit Union Deposit Guarantee Corporation, protects all deposits with credit unions and also unconditionally guarantees all deposits with Alberta Treasury Branches.

Since security deposit trust accounts with banks, trust companies and loan companies are insured to a limit of \$100,000, certain procedures **must** be followed to ensure funds are protected if the account balance exceeds \$100,000:

1. Inform the bank, trust company or loan company that the trust account is a pooled trust account set up under the RTA. Advise the institution that the account contains funds of more than one party and that these parties change periodically. Whenever a landlord opens a new trust account, they have to provide a similar notification to the bank or trust company.
2. Provide the bank, trust company or loan company with the following information:
 - a) The number of tenants whose money is in the trust account. Identify them by suite or stall numbers, or similar identification, but **not** by name.
 - b) The amount that each tenant has on deposit with the landlord in the trust account.

This notification should be given to the landlord's bank, trust company or loan company on or about April 30th each and every year. This will establish beyond doubt that the trust account is in fact pooled. Because the premium payable to C.D.I.C. is calculated on April 30th each year, it is necessary to provide this information to the bank, trust company or loan company to coincide with that date. Provided that landlords follow this procedure on an annual basis, it is understood that each party who has funds on deposit in the trust account will be protected to the \$100,000 limit presently provided under the *C.D.I.C. Act*.

It is important that landlords follow this process on an annual basis. If the appropriate disclosure has **not** taken place, e.g., been made by the depositor and recorded by the member financial institution, C.D.I.C. will treat the account as part of the depositor's individual holdings, which would be eligible for a cumulative maximum of \$100,000 of insurance coverage. If a tenant suffers a loss of funds that are being held on deposit by a landlord in a pooled trust account, the tenant may be able to claim against the landlord for the loss.

FORMS

Accommodation Inspection Report and Statement of Account forms are available at a nominal cost from the Calgary Residential Rental Association and the Alberta Residential Landlord Association.

RESIDENTIAL TENANCY AGREEMENTS FEES & CHARGES

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

- 1(1)(f) landlord definition
- 1(1)(k) rent definition
- 1(1)(l) residential premises definition
- 1(1)(m) residential tenancy agreement definition
- 1(1)(n), 43(1), 43(2) security deposit

1(1)(t) tenant definition

22(6) assignment or sublease

There are no sections in the Regulations relating directly to “additional fees or charges”.

GUIDELINES

The RTA allows a landlord to collect a security deposit providing that it does **not** exceed the sum of the first month’s rent.

The RTA does **not** prohibit the landlord and tenant from agreeing to fees and charges that are in addition to the security deposit and rent. However, a landlord **cannot** charge an additional “deposit” for a certain privilege if the total amount of these exceeds the sum of the first month’s rent.

Any refundable fee or charge becomes part of the security deposit.

A non-refundable fee or charge that is agreed to in the residential tenancy agreement is **not** subject to the security deposit restrictions. Non-refundable fees **cannot** be deposited into the security deposit trust account.

A landlord should give a tenant a receipt for any payments that are received from the tenant.

A residential tenancy agreement is a contract between the landlord and tenant, (see **RESIDENTIAL TENANCY AGREEMENT** section). Like all contracts, the residential tenancy agreement can specify the terms of any additional fees or charges and the circumstances that would give rise to them.

The tenant has the option of refusing to enter into a residential tenancy agreement that contains additional fees or charges. The tenant may negotiate changes to their specific tenancy agreement or may choose to rent elsewhere.

Once both parties enter into an agreement, it **cannot** be amended without the agreement of both parties. So, if the tenancy agreement is written, and any additional fees or charges are clearly specified and agreed to by the tenant and are **not** contrary to the RTA, then the tenant is obligated to pay those fees or charges when the circumstances giving rise to them occur. If the tenancy agreement is **not** written, it becomes a matter for the courts or RTDRS to determine, based on the evidence presented to them, whether there was agreement on the additional fees or charges payable by the tenant.

Any fee or charge that a landlord imposes may be subject to review by the court or RTDRS. If a tenant feels a fee or charge is unreasonable, they can refuse to pay it and the landlord can then apply to the court or RTDRS for a determination as to whether the money is properly owing.

PRACTICAL APPLICATIONS

Many non-refundable fees paid by the tenant to the landlord are considered “rent” under the RTA if they are mandatory and included in the tenancy agreement and rent increase restrictions apply.

Fees or additional charges should reasonably reflect the actual costs that the landlord is seeking to cover. If the fee or charge does **not** reflect an actual cost recovery, or is in excess of the cost recovery, it may be held by a court to be unenforceable.

Tenancy agreements should state any additional fees or charges, the circumstances that will give rise to them, and whether they are refundable or non-refundable. All fees should be disclosed to tenants when an application and security deposit are taken.

APPLICATION FEES

A landlord may want to charge an application fee. An individual who does **not** want to pay such a fee does **not** have to apply to rent from that landlord.

KEY OR PET FEES

A landlord may want to charge key or pet fees. A landlord may refer to these deposits as additional fees or charges. While these are not against the law, if they are refundable to the tenant, they become part of the security deposit amount. The grand total of all charges **cannot** exceed the amount of the first month's rent as any refundable fee or charge forms part of the security deposit.

NON-REFUNDABLE FEES

Any non-refundable fee or charge is a contractual agreement between the landlord and the tenant, is **not** subject to the security deposit restrictions, and is considered "rent" under the RTA. Non-refundable fees **cannot** be deposited into the security deposit trust account.

LATE PAYMENT OF RENT FEES

Some residential tenancy agreements allow for a late payment of rent fees. Based on precedent set by Alberta case law, this fee must reflect the actual loss suffered by the landlord otherwise the RTDRS or the courts may deem it to be a penalty and refuse to award it. For example, a bank might charge a landlord additional interest if a landlord is unable to make a mortgage payment because the tenant did not pay the rent on time. Therefore, a late payment fee charged to the tenant to cover the interest charged to the landlord by the bank could be a justifiable amount.

RE-RENTAL FEE

A landlord may charge a re-rental fee if it has been agreed to in the residential tenancy agreement. If the tenant wishes to terminate their tenancy prior to the termination date and, if the landlord is willing to allow it, the tenant will be required to pay the landlord the re-rental fee agreed to in the tenancy agreement.

PETS

While landlords in Alberta may choose to limit most animals from rental units, the *Service Dogs Act* and *Blind Persons' Rights Act* prohibits landlords from discriminating against or denying tenancy to any disabled person with a trained service dog or guide dog. This only applies to trained service dogs and guide dogs, and not to other pets or non-trained support animals. Emotional support animals that are not trained service dogs are typically not covered by the *Service Dogs Act*, and landlords are therefore not required to accommodate them.

Many landlords include a "no pet" provision in a residential tenancy agreement because:

- Units in which pets have been kept often require more extensive cleaning, repainting, repair, and replacement of items, than do units where there have **not** been pets, and
- other tenants may have allergies to certain animals or are sensitive to the noise or behaviour of some animals.

Some residential tenancy agreements have clauses prohibiting pets in a unit unless the landlord specifically and in writing allows a particular pet.

If a tenant signs a residential tenancy agreement agreeing to a "no pet" policy, and the tenant brings in a pet later on without the landlord's permission, the tenant is in violation of the contract. This violation could result in the landlord terminating the tenancy.

Tenants must never assume that a pet is exempt from a “no pet” policy and should confirm with their landlord before bringing any pet into the residential premises unless expressly allowed in the tenancy agreement.

LANDLORD’S DISTRAINT (DISTRESS)

STATUTORY REFERENCE

The landlord’s right to distraint for recovery of rent arrears is covered in the *Civil Enforcement Act* and Regulations, and in common law. It is **not** mentioned in the *Residential Tenancies Act* (RTA) or the regulations.

GUIDELINES

Distress is a remedy that a landlord can use to recover unpaid rent without having to go to court. The process of distress allows a landlord to hire a civil enforcement agency to seize property on the rented premises that belongs to the tenant in order to recover rent money that is owed. The property can then be sold, and the proceeds used to repay the rent and expenses incurred by the landlord.

The right to use distress arises as soon as rent is late, and the process **must** be carried out in accordance with the law. The landlord **cannot** use this process to recover other money owing by the tenant. The *Civil Enforcement Act* and Regulations outline the process that must be followed in the seizure of goods (effecting a distraint).

1. A seizure of the tenant’s personal property may only be made through a civil enforcement agency by a civil enforcement bailiff on instructions from a landlord in the form of a Warrant of Distress.
2. Some property is generally exempt from seizure under the authority of a Warrant of Distress and is specified in the Information for Debtor form (see #4 below).
3. At the time of a seizure, the tenant **must** be provided with a Notice of Objection to Seizure and Information for Debtor form. The tenant can complete the form if he or she wishes to object to the seizure of some or all of the property. The Notice of Objection to Seizure **must** be completed and served on the civil enforcement agency at the address shown within 15 days of the person being served with the seizure documents.
4. If a tenant objects to the seizure of property, the seized property **cannot** be sold without the court’s permission. However, if there is no valid reason for objecting to the seizure, the tenant may be responsible for paying the landlord’s costs in taking the matter to court.
5. The landlord has priority over unsecured creditors.
6. If seized property has been pledged as security, but the security interest has not been registered in the Personal Property Registry before the seizure, the landlord may have priority over that secured creditor in relation to that property.
7. Generally, only the property on the premises at the time of the seizure that belongs to the tenant, any relative living on the premises as a member of the tenant’s family, or a person who is liable for rent, may be seized.
8. If there is no objection to the seizure, the seized property may be sold without a court order by any commercially reasonable manner.
9. Distribution of the proceeds of the sale of the seized property is in the following order:
 - (a.) all fees and charges for conducting the sale,
 - (b.) all fees and charges of the civil enforcement agency that effected the seizure,
 - (c.) all costs awarded by the court (if the matter required court application),
 - (d.) rental arrears owed to the landlord, and

(e.) any excess is returned to the tenant.

PRACTICAL APPLICATIONS

The common law remedy of landlord's distress is one that dates back almost a thousand years and is still available to the landlord today. The landlord is responsible for the seizure costs; however, those costs can be added to the amount owed by the tenant. To satisfy those costs plus the amount owed for the rent arrears may require the seizure and sale of a significant portion of the tenant's property, or seizure and sale of items of significant value.

The tenancy continues during and after the distraint has been effected. This is because in order for the remedy to be available, there **must** be a legal relationship of landlord and tenant. If the tenancy is terminated, there is no such relationship, so the remedy of distress is **not** available to a previous landlord after termination of a tenancy. A landlord taking possession of the residential premises is a clear indication that a tenancy has been terminated.

The most important obligation of the tenant under the residential tenancy agreement and the RTA is to pay the rent in full when it is due. If rent is not paid, for whatever reason, the landlord has the right to terminate the tenancy. In the alternative, landlords may choose to distraint for the arrears of rent owed.

- If the landlord terminates the tenancy, the landlord **cannot** distraint for arrears of rent. The landlord can only bring an action in court for a judgment against the tenant for the amount of the arrears.
- If the landlord decides to distraint for arrears of rent, then the tenancy continues.

A landlord does **not** have to give the tenant any notice or go to court before distraining. Landlords must use the services of a civil enforcement agency and civil enforcement bailiff to seize the tenant's property.

If a tenant has abandoned the residential premises, the rules for abandoned goods under the RTA apply to the belongings the tenant has left behind.

MORE INFORMATION

Current information about distress for rent owing is available in the Civil Enforcement Procedure Manual available at: <https://kings-printer.alberta.ca/documents/publications/civil.pdf>.

RENT INCREASES

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

- 1(1)(e) Definition of fixed term tenancy
- 1(1)(f) Definition of landlord
- 1(1)(i) Definition of periodic tenancy
- 1(1)(j) Definition of prescribed
- 1(1)(k) Definition of rent
- 1(1)(l) Definition of residential premises
- 1(1)(m) Definition of residential tenancy agreement
- 1(1)(q) Definition of tenancy month
- 1(1)(r) Definition of tenancy week

1(1)(s) Definition of tenancy year

1(1)(t) Definition of tenant

1(2) Reference to tenant

13 Implied periodic tenancy

14 Notice of increase in rent

26 Landlord's remedies

37 Tenant's remedies

39 Compensation to tenant

41 Application for remedy to court

42 Order of court

57 Service of notices

58 Satisfaction of service requirement

60 Offences and penalties

70 Ministerial regulations

Residential Tenancies Ministerial Regulation sections:

3 Rent increase

11 Offence

GUIDELINES

The RTA defines rent as the consideration to be paid by a tenant to a landlord under a residential tenancy agreement but does not include a security deposit.

FOR A NEW TENANT

When a landlord and a tenant enter into a residential tenancy agreement, there is no limit on how much rent they can agree to or the services that rent will include. For example, the rent may include utilities and parking.

The RTA does **not** control how much rent can be charged or how much rent can be increased.

FOR AN EXISTING TENANT

Rent **cannot** be increased unless 365 days have passed since the commencement of the tenancy or the last increase in rent, whichever is later. This applies to both periodic and fixed term tenancies. If the 365th day occurs during the term of a fixed term tenancy, the rent **cannot** be increased until that fixed term ends.

Where a tenant does **not** give a landlord a notice of termination after receiving a proper notice of rent increase from a landlord, the tenant is deemed to have accepted the rent increase.

NOTICE REQUIREMENTS

The notice of rent increase **must** be in writing and include all of the following:

- the effective date of the increase,
- the landlord's signature, and

- the date the landlord signed the notice.

A notice of rent increase must be served on each tenant and **cannot** be posted in the common areas to increase rents for all tenants.

A notice that does not contain all the above-mentioned legal requirements is void and the rent **cannot** be increased until the landlord serves a notice, which contains all of the legal notice requirements.

CONDOMINIUM CONVERSIONS OR MAJOR RENOVATIONS

If a landlord serves a notice of termination because the residential premises **must** be vacant to convert to condominiums or for major renovations, the rent **cannot** be increased after the notice of termination is served.

FIXED TERM INCREASE NOTICES FOR EXISTING TENANCIES

A fixed term tenancy is a tenancy agreement with a start date and an end date for the tenancy.

A landlord and tenant can negotiate a rent increase for a fixed term tenancy if there has **not** been a rent increase within the previous year (365 days) or since the start of the tenancy, whichever is later. If the 365th day occurs during the term of a fixed term tenancy, the rent **cannot** be increased until that fixed term tenancy agreement ends.

If a fixed term tenancy is for any period of less than a year, the rent **cannot** be increased for that tenant unless 365 days have passed since the start of the tenancy or since the last rent increase, whichever is later.

This applies even if a fixed term tenancy agreement has a clause that states the rent will automatically increase on a date during the fixed term contract.

PERIODIC TENANCIES INCREASE NOTICES FOR EXISTING TENANCIES

Rent **cannot** be increased under a periodic tenancy unless the tenant has been properly served, before the increase is to take effect, with a written notice that contains all of the required information.

Tenants must be given the proper period of notice to increase the rent. Depending on the type of periodic tenancy, a landlord is required to provide the following amount of notice:

- For a periodic week-to-week tenancy, at least 12 full tenancy weeks before the date on which the increase is to be effective.
- For a month-to-month tenancy, three full tenancy months before the date on which the increase is to be effective.
- For any other periodic tenancy, 90 days before the date on which the increase is to be effective.

A notice that is **not** served within the proper period of notice is void and the rent **cannot** be increased until the landlord serves a written notice, which contains all the required information, within the proper period of notice.

As an example, for a month-to-month tenancy, the notice must be served by May 31, 2022, for the rent to increase on September 1, 2022.

If the residential tenancy agreement provides for a period of notice longer than the above, the landlord **must** give at least that longer period of notice before increasing the rent or recovering any additional rent resulting from the increase.

Tenants **cannot** waive their rights to receiving the minimum period of notice for rent increases as part of a residential tenancy agreement. Landlords and tenants can; however, agree to a longer period of notice. This longer period of notice then becomes the minimum time frame for the parties. Landlords are always allowed to provide longer notice than the minimum required if they wish to.

INCREASE NOTICES FOR EXISTING HYBRID TENANCIES

A hybrid tenancy is a fixed term tenancy for a set period of time that becomes a periodic tenancy after that fixed term.

A hybrid tenancy is a residential tenancy agreement that starts as a fixed term tenancy for a set period of time, e.g., six months or a year, then at the end of the fixed term the tenancy becomes a periodic tenancy, e.g., a month-to-month tenancy agreement that automatically renews with no set end date.

A notice of rent increase can be served during the fixed portion of the tenancy to take effect in the periodic portion as long as the above rent increase provisions for periodic and fixed term tenancies are applied. If a hybrid lease has a six-month fixed term before becoming a periodic tenancy, the rent can only be increased if there has **not** been a rent increase within the previous 365 days or if 365 days have passed since the start of the tenancy, whichever is later.

FAULTY NOTICES – RENT INCREASE NOTICE NOT BINDING

There is no option to correct a notice that does **not** comply with the legal requirements. A new notice must be served with all the proper legal requirements.

When tenants receive faulty notices, they should inform the landlord in writing that they object to the notice because it does **not** comply with the legislation.

The written notice of objection to the faulty rent increase notice should be served on the landlord at any time before the date the rent is due. A copy should be kept by the tenant.

For example, if a notice to increase rent does **not** include the legal requirements, it is void and **not** binding. If a landlord only gave two months notice to increase rent to a monthly periodic tenant, the rent increase is void and **not** binding. The landlord **cannot** simply add a month to the effective date of the increase set out in the notice that is void and **not** binding. A landlord **must** serve a new written notice of rent increase that meets the legal requirements.

A tenant who pays an increase in rent based on a notice that does **not** comply with the requirements may recover the amount of the increase by applying to court or RTDRS for a rent abatement or refund of unlawful rent. This application should be filed within two years after the unlawful amount was collected. The amount of rent charged may be unlawful if:

- A landlord gave a notice of rent increase that was **not** valid (for example, a tenant was **not** given the proper amount of notice to increase the rent).
- A landlord increased the rent in fewer than 365 days since the last rent increase or since the commencement of the tenancy.

UTILITIES

Landlords **cannot** require tenants to pay utilities after a tenancy has started if the residential tenancy agreement:

- Contains express wording that the utilities are included in the rent,
- Is silent on who is responsible for utilities, but the landlord has always taken a portion of the rent to pay the utilities.

Landlords and tenants can mutually agree that utilities will no longer be included in the rent. Landlords can also increase rent in accordance with the RTA to cover increased utility costs.

PARKING FEES

There is no requirement for a rent increase notice when a landlord and tenant **agree to add** a parking stall to a residential tenancy agreement.

If a residential tenancy agreement states that parking fees are included in the rent, then an increase for parking charges or the introduction of a new parking fee is subject to the rent increase notice provisions.

PRACTICAL APPLICATIONS

A landlord and tenant can mutually agree to changes in the residential tenancy agreement as long as the changes do **not** take away the tenant's rights under the RTA, such as the right to be served a legal notice.

If the increase would cause a hardship, tenants can discuss the possibility of a different rent increase with landlords.

If tenants decide **not** to pay the increased rent, they should take appropriate steps to end the tenancy and vacate the residential premises before the date of the rent increase (see **TERMINATION OF TENANCY** section).

If a tenant stays in the residential premises after the date the rent increase is to be effective, the tenant has accepted the increase.

The landlord is entitled to have the rent paid in full when it is due. If a tenant runs into a problem paying the rent and lets the landlord know beforehand what the problem is, a landlord may let the tenant stay and pay the rent later or over a period of time. But the landlord is under no obligation to do this.

LANDLORD'S RIGHT OF ENTRY

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

1(1)(f) Landlord Definition

1(1)(l) Residential premises Definition

1(1)(t) Tenant Definition

1(2) Reference to Tenant

16 Landlord's Covenants

23 Entry of Premises

24 Locks and Security Devices

37 Tenant's Remedies

There are no sections in the Regulations relating directly to the landlord's right of entry.

GUIDELINES

A tenant is entitled to the exclusive possession and peaceful enjoyment of the residential premises they are renting. Both the landlord and the tenant must abide by the residential tenancy agreement and the obligations in the RTA.

The residential premises is the landlord's property, and it is also the tenant's home.

The tenant should **not** be disturbed or inconvenienced by the landlord or anyone working for the landlord without a valid reason unless the tenant gives consent or is served with the required notice at least 24 hours before the time of entry.

ENTRY WITH CONSENT

Consent is a voluntary agreement by a person to do something proposed by another person. Consent under the influence of fear, terror, fraud, deception, or coercion does **not** amount to real consent.

A landlord may enter the residential premises with the tenant's consent at any time. If the landlord obtains the consent of the tenant, a notice of entry is **not** required. The time for entry would be arranged at a time convenient to both the landlord and the tenant. Landlords can phone or meet with tenants to obtain consent to enter the residential premises. Consent can be given verbally or in writing.

If the tenant has made the landlord aware of needed repairs, the landlord may want to obtain the tenant's consent at that time to enter the residential premises to complete the repairs. Otherwise, the landlord will be required to give proper notice of entry. Putting any type of consent agreement in writing is a good idea.

ENTRY WITH NOTICE

A landlord may enter the tenant's residential premises without consent if the landlord serves the tenant with a written notice of entry at least 24 hours before the time of entry. Landlords can enter this way in order to:

- Inspect the state of repair of the residential premises.
- Make repairs to the premises.
- Control pests as required.
- Show the premises to prospective purchasers or mortgagees.
- Show the premises to prospective tenants after the landlord or tenant has served notice to end a periodic tenancy or in the final month of a fixed term tenancy.

The written notice of entry **must** state the reason for the entry.

If a landlord needs to enter all or several residential premises in a complex, the landlord **must** give each tenant notice of the entry. For example: A landlord needs to enter all units to check the furnaces. A landlord **cannot** just post a notice of entry in the common areas of the building.

A tenant does **not** have to be present when a landlord enters the residential premises. The landlord has the right to enter as long as the landlord gives proper notice.

FORM OF NOTICE

A notice to enter the residential premises **must**:

- be served on the tenant at least 24 hours before the time of entry,
- be in writing,
- be signed by the landlord or the agent,
- state the reason that the landlord is entering the residential premises, and
- state the date and time of entry that complies with the restrictions on holidays and hours of entry.

- The date and time of entry may be expressed as a length of time of reasonable duration, which must begin and end at specific times.

TIME OF ENTRY

The notice must state the time, or a period of time, for when the landlord is going to enter. Landlords may only enter with notice between the hours of 8 a.m. and 8 p.m. The timeframe given in the notice is supposed to be of reasonable duration.

The landlord **cannot** enter on a holiday or a Sunday without consent. If the tenant has a different day of religious worship, the tenant **must** give the landlord written notice of that day. A landlord can then enter on a Sunday, but **not** the day that is the tenant's day of religious worship.

The date and time of entry may be expressed as a period of time of reasonable duration, which **must** begin and end at a specified time.

Landlords have the right to maintain their properties through inspections. Landlords should take into consideration the needs of tenants.

Most landlords are flexible and considerate in entering rental premises and work with their tenants to make mutually satisfactory arrangements. Likewise, most tenants are understanding when it comes to entry by the landlord. If notices give numerous times of entry, the inconvenience could rise to such a level that the notices would be unreasonable. Notices that cover multiple days are **not** allowed. Each entry requires its own written notice.

Determining a reasonable duration involves balancing the tenant's right to privacy and the landlord's rights. While it may be convenient for a landlord to serve notices to enter residential premises over many hours or days, convenience is **not** the same thing as reasonableness. Reasonable duration is determined on the specifics of the situation.

When a tenant gives a notice to terminate the tenancy or a fixed term tenancy is about to expire, there needs to be some flexibility allowed to ensure that the landlord can show the property. While the tenant has a right to privacy, it's important to recognize the landlord's right to fill the vacancy.

A tenant has the right to peaceful enjoyment of rented premises. In the case of a dispute over whether the tenant has been denied peaceful enjoyment, the courts and the RTDRS have the authority to balance the inconvenience to the tenant with the needs of the landlord (such as to conduct building repairs) in determining what is reasonable.

ENTRY WITHOUT NOTICE

The landlord may enter the residential premises without permission and without giving the tenant any notice for only two reasons:

- If the landlord has reasonable grounds to believe there is an emergency.
- If the landlord has reasonable grounds to believe the tenant has abandoned the residential premises.

ENTRY FOR EMERGENCIES

An emergency could be defined as an unforeseen combination of circumstances that calls for immediate action. Such things as smoke, unusual odors, flames, water damage, broken windows, heat or power failure, smoke detector alarm sounding and threat to life or property may be considered emergencies.

A landlord may enter the residential premises without consent or notice when they believe an emergency exists. If an emergency happens when a tenant is **not** home, landlords should phone the tenant, ring the doorbell and knock on the entrance to the premises before using pass keys. Contact attempts should be documented.

If the tenant changed the lock and did **not** give the landlord a key, emergency personnel can remove the lock or the door. The tenant has committed a breach of the RTA by **not** providing the landlord with a new key (see **SECURITY: KEYS AND LOCKS** section).

It is a punishable offence for a landlord to enter the premises in a way or for a reason that does not comply with the RTA.

PRACTICAL APPLICATIONS

ABANDONMENT

There are times when the tenant may be away for an extended period of time but has **not** actually abandoned the residential premises.

A tenant may vacate the residential premises without giving notice to the landlord and while the tenancy is still in effect.

If there has been no response from the tenant after the landlord makes genuine attempts to communicate with them, the landlord **must** determine if the tenant has abandoned the residential premises. To be safe, the landlord should serve the 24-hour entry notice.

Examples of the kinds of things that might cause the landlord to believe that a tenant has abandoned the residential premises are:

- Rent has **not** been paid.
- Mail addressed to the tenant is still coming to the residential premises without being picked up, or alternatively is no longer coming.
- The utilities (if in the tenant's name) have been disconnected.
- Newspapers or flyers have accumulated.

Within reason, a landlord could talk to neighbours, friends, relatives, the tenant's employer or references given by the tenant to see whether they can provide information.

If a tenant abandons the residential premises before the end of the tenancy, the landlord may still be entitled to the rent that is owed for the remainder of the tenancy agreed to in the residential tenancy agreement.

The landlord **must** take reasonable steps to re-rent the unit in this instance. If the landlord rents the premises to a new tenant, the old tenant is no longer responsible to pay the rent from the date the new tenant moved in until the date that their residential tenancy agreement was supposed to have ended.

If a tenant left some belongings in the residential premises and the landlord believes on reasonable grounds that the abandoned goods have a total market value of less than \$2,000, the landlord may dispose of the goods. If the goods have a value of more than \$2,000, the landlord **must** store the goods for a period of 30 days. After the 30 days, the landlord can sell the goods at a public auction, or with the approval of a court, by private sale. There are record keeping requirements that the landlord **must** abide by when there are abandoned goods. Section 31 of the RTA speaks to abandonment.

When a landlord sells abandoned goods, the proceeds of the sale must be paid to the Minister of Service Alberta and Red Tape Reduction, less any proper expenses of removing, storing, and selling the goods. Landlords are not permitted to profit off of the sale of abandoned goods.

FREQUENCY OF ENTRY TO INSPECT

The RTA requires inspection reports to be completed at the beginning and the end of the tenancy. However, good business practices suggest that an inspection should be conducted at least once a year in a long-term tenancy. Proper written notice of entry has to be provided by the landlord.

FORMS

Notice of entry forms are available at a nominal cost from the Calgary Residential Rental Association and the Alberta Residential Landlord Association.

Since the RTA does **not** prescribe a particular form of notice of entry, landlords and tenants are free to prepare whatever form best suits their particular needs so long as that notice conforms to the requirements. Any agreement or notice **cannot** take away any of the rights, benefits or protections contained in the RTA.

SECURITY – KEYS & LOCKS

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

- 1(1)(f) landlord definition
- 1(1)(h) overholding tenant definition
- 1(1)(l) residential premises definition
- 1(1)(m) residential tenancy agreement definition
- 1(1)(t) tenant definition
- 1(2) reference to tenant
- 16 landlord's covenants (obligations)
- 23 entry of premises
- 24 locks and security devices
- 31 abandoned goods
- 34 order for recovery of possession
- 34.1 requirements respecting eviction

There are no sections in the Regulations relating directly to security - keys and locks.

GUIDELINES

At the beginning of a tenancy, the landlord must give the tenant a key for the residential premises, main doors, mailbox and any other common areas, such as recreational or laundry rooms that the tenant has the right to access. The tenant **must** return all the keys at the end of the tenancy, including any extra keys the tenant had cut at their own expense. This helps keep the premises secure.

The RTA says that a landlord or a tenant shall **not** change or add to the locks on doors to the residential premises without the agreement of the other party. The agreement can be verbal or in writing.

However, the RTA also includes a provision (Section 24) that allows a landlord to change or add to the locks on doors giving access to the residential premises as long as the landlord gives a key to the tenant as soon as the change is made.

If a landlord consents to a tenant's request to change or add to the locks, the tenant has to give the landlord a key as soon as the change or addition is made.

A tenant is allowed to install a security device, such as a chain lock, that can only be used when the tenant is inside the residential premises. If the tenant adds this kind of security device, the tenant can do the following when the tenancy ends:

1. Leave the device installed and it becomes the property of the landlord, or
2. remove the device and repair any holes in the door and the door frame. If damage occurs due to the installation of the device, the tenant is responsible for the repairs.

PRACTICAL APPLICATIONS

If a tenancy has come to an end, but the tenant has **not** yet moved out, the landlord **cannot** change the locks to prevent the tenant from re-entering the residential premises. The landlord **cannot** change the locks until the tenant has given up possession of or abandoned the residential premises. The tenant has not abandoned the premises simply because they have temporarily left.

If the tenant does **not** move out at the end of the tenancy, the tenant becomes an overholding tenant. The landlord **must** apply to court or RTDRS for an Order for Recovery of Possession to have the tenant give up possession of the premises. If the tenant still does not give up possession, a civil enforcement agency has the authority to evict a tenant, but only in accordance with a court order. The locks **cannot** be changed until the tenant is physically evicted from the residential premises.

If a landlord determines that a tenant has abandoned the residential premises, the landlord may change the locks to ensure that the residential premises and the tenant's belongings, if any, are secure.

If tenants want to add or change locks to increase security, they may do so if they have the landlord's permission and if they give the landlord a key for the new lock. The landlord has to be able to enter the residential premises at all times in case there is an emergency, such as a fire.

In summary, if a landlord adds to or changes locks without the consent of the tenant, they have to immediately provide a key to the tenant. If a tenant has the landlord's consent to add to or change locks, the tenant **must** immediately provide the landlord with the new key. In either case, if a key is **not** provided to the other party, as soon as possible, after a lock has been added or changed, an offence has been committed under the RTA. A written complaint has to be made to Service Alberta and Red Tape Reduction before they can take action against the party who added to or changed the lock (see "[Filing a Consumer Complaint](#)" information sheet).

Tenants should **not** lend other people their keys or give out copies of their keys. Tenants are responsible for any damage or disturbance caused by people to whom the tenants grant access to the residential premises.

TERMINATION OF A TENANCY

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

1(1)(e) fixed term tenancy definition

1(1)(f) landlord definition

1(1)(h) overholding tenant definition

1(1)(i) periodic tenancy definition

1(1)(j) prescribed definition

1(1)(k) rent definition

1(1)(l) residential premises definition

1(1)(m) residential tenancy agreement definition

1(1)(p) substantial breach definition

1(1)(q) tenancy month definition

1(1)(r) tenancy week definition

1(1)(s) tenancy year definition

1(1)(t) tenant definition

1(2) reference to tenant

5 notice of termination of periodic tenancy

6 termination by landlord

7 notice to terminate weekly tenancy

8 notice to terminate monthly tenancy

9 notice to terminate yearly tenancy

10 form of notice

11 notice to terminate tenancy of employee

12 notice to terminate for condominium conversion

13 implied periodic tenancy

15 notice to terminate **not** required (to end fixed term tenancies)

16 landlord's covenants (obligations)

20 time of expiration or termination

21 tenant's covenants (obligations)

22 assignment and sublease

26 landlord's remedies

27 repudiation of tenancy

28 termination for substantial breach by landlord

29 termination for substantial breach by tenant
30 termination of tenancy for damage or assault
32 recovery of damages
33 notice to vacate (48-hour notice to non-tenant)
34 order for recovery of possession
35 notice of default required
36 notice to vacate (14-day notice to non-tenant)
37 tenant's remedies
38 possession unobtainable
39 compensation to tenant
40 frustration of tenancy agreement
41 application for remedy to court
42 order of court
47.3 termination of tenancy for domestic violence
57 service of notices, etc.
58 satisfaction of service requirement
60 offences and penalties
70 ministerial regulations
Residential Tenancies Ministerial Regulation sections:
2 termination of periodic tenancies
11 offence
Form 1 Landlord's notice to tenant to terminate periodic tenancy
Form 2 Tenant's notice to landlord to terminate periodic tenancy
Form 3 Landlord's notice to tenant to terminate for substantial breach
Form 4 Landlord's notice to tenant 24-hour notice to terminate tenancy
Form 5 Landlord's notice to vacate to persons who are **not** tenants
Form 6 Tenant's notice to landlord to terminate for substantial breach
Form 7 Certificate Confirming Grounds to Terminate Tenancy

GUIDELINES

Tenants and landlords may terminate a residential tenancy agreement for a variety of reasons. It may be because there has been a breach of the tenancy agreement, because the tenant has found another place to live, or the landlord wants to end the tenancy for a prescribed reason. Regardless of the reason, proper notice is required to terminate a tenancy.

A landlord **cannot** terminate a residential tenancy agreement because the tenant made an application or filed a statement under the RTA, made a complaint, assisted in an investigation or inquiry, or gave

evidence at a hearing under the RTA or the *Public Health Act*. A written complaint has to be made to Service Alberta and Red Tape Reduction before the department can take action against a landlord, (see "[Filing a Consumer Complaint](#)" information sheet).

If an order to vacate is issued under Alberta's health and safety laws, the tenancy may be terminated. These orders take precedence over the RTA.

The RTA does **not** restrict a landlord from terminating a tenancy during the winter months.

PRACTICAL APPLICATIONS

The RTA balances the rights of landlords to remove tenants or non-tenants who have committed a substantial breach with the rights of tenants to remain in the premises.

Tenants **must** be served a written notice that states the reason for the termination and the date that the tenancy is to end. Tenants have the opportunity to object to the reason given for the termination for a substantial breach unless the notice is for unpaid rent. If the tenant objects to the reason, the landlord must go to court or RTDRS for an order terminating the tenancy and to get possession of the premises. Both parties can present their side to the court or RTDRS.

It is important to remember that regardless of who has committed a substantial breach, a landlord and tenant can at any time agree between them to end the tenancy by a certain date and save the expense of taking the matter to court or RTDRS.

The landlord is always entitled to have the rent paid in full when it is due, even if the landlord is not meeting all of their obligations to the tenant. If a tenant runs into a problem paying the rent and lets the landlord know beforehand, a landlord may let the tenant stay and pay the rent later or over time. But the landlord is under no obligation to do this. If the landlord does not agree, tenants must apply to court or the RTDRS to have rent reduced or to obtain reimbursement.

Even if a landlord is sympathetic and allows a tenant additional time to come up with the rent, the landlord may charge a late payment fee (if such a fee has been agreed to in the residential tenancy agreement). If late payment of rent happens frequently, the landlord can go directly to court or RTDRS to seek termination of the tenancy or can serve the tenant with 14 clear days notice (16 days in total) to terminate the tenancy on the basis that the tenant has committed a series of breaches, the cumulative effect of which amounts to a substantial breach.

If a landlord serves a tenant with notice to terminate the tenancy for failure to pay rent, the tenant can void the notice by paying all rent owing before the termination date on the notice.

A landlord is **not** allowed to change the locks to force a tenant out of the residential premises or to otherwise deny access to the tenant while the tenant still lives in the residential premises. A landlord is never allowed to physically remove a tenant or their belongings without a civil enforcement agency.

A landlord is **not** allowed to discriminate against a tenant based on source of income.

MOVING OUT

When a tenant wants to end a periodic tenancy, the tenant **must** give the landlord a notice saying they plan to move out.

The tenant's notice to the landlord **must**:

- be in writing,
- give the address of the residential premises,
- be signed by the tenant, and

- set out the termination date.

A tenant must move out by noon on the last day of the tenancy unless the landlord and tenant agree on a different time. This does **not** apply if a landlord has served a tenant a 24-hour notice to terminate the tenancy for damage or assault. If the notice to terminate is for damage or assault, the tenant must move out at the time stated in the notice.

HOW MUCH NOTICE IS REQUIRED TO TERMINATE A TENANCY?

❖ **RESIDENTIAL TENANCIES ACT - SECTION 6 – TERMINATION OF PERIODIC TENANCY BY LANDLORD OR TENANT FOR PRESCRIBED REASONS**

If a landlord needs to do major renovations that require the premises to be empty, the landlord **must** give the tenant 365 days notice to terminate the periodic tenancy.

Note: Major renovations do **not** include painting, replacing of floor coverings, or routine maintenance.

No rental increases are allowed during the notice period.

If the landlord gives less than 365 days notice to terminate a tenancy so major renovations can be done or increases the rent after giving the notice, the landlord has committed an offence under the RTA. A written complaint can be made to Service Alberta and Red Tape Reduction to take action against the landlord. (see "[Filing a Consumer Complaint](#)" information sheet).

If the tenant has **not** committed a substantial breach, a landlord can only end a periodic tenancy for the following reasons:

- The landlord or a relative of the landlord intends to live in the residential premises.
- The landlord has sold the residential premises and the purchaser or a relative of the purchaser wants to move in.
- The landlord has sold a detached or semi-detached dwelling unit or condominium unit, and the purchaser has requested in writing that the tenancy of any tenants in that unit be terminated.
- The landlord intends to demolish the building.
- The landlord intends to use the residential premises for a non-residential use, such as business purposes.
- The landlord is an educational institution, and the tenant is no longer a student or will no longer be a student at the termination date specified in the notice of termination.
- The landlord is converting the unit to a condominium.

The landlord's notice to the tenant **must**:

1. be in writing,
2. give the address of the residential premises,
3. be signed by the landlord,
4. state the reasons for the termination, and
5. set out the termination date.

If the tenant moves out of the residential premises as required by the notice given for one of the prescribed reasons listed above, and the landlord does **not** use the premises for that reason, the landlord has committed an offence under the RTA. A written complaint can be made to Service Alberta and Red Tape Reduction (see "[Filing a Consumer Complaint](#)" information sheet). A tenant may pursue a landlord for compensation through court or RTDRS.

If a tenant wants to move out of the residential premises before the termination date set out in the notice from the landlord, proper written notice to vacate **must** be served by the tenant to end the tenancy.

❖ SECTION 7 – TERMINATION OF WEEKLY PERIODIC TENANCY

The landlord and tenant **must** give each other one week's written notice. Notice is to be served on or before the first day of the tenancy week, with the termination to be effective on the last day of the tenancy week.

❖ SECTION 8 – TERMINATION OF MONTHLY PERIODIC TENANCY

A landlord **must** give the tenant three tenancy months' written notice. Notice is to be served on or before the first day of the three-month notice period.

An example: Joe has a month-to-month tenancy. It begins on the first day of the month and ends on the last day of the month. If Joe's landlord wants Joe to move out by September 30, the landlord would have to give Joe notice on or before July 1.

A tenant **must** give the landlord one tenancy month's written notice. Notice is to be served on or before the first day of the one-month notice period.

An example: Joe has a month-to-month tenancy. It begins on the first day of the month and ends on the last day of the month. Joe decides to move out by September 30. He **must** give the landlord notice on or before September 1.

❖ SECTION 9 – TERMINATION OF YEARLY PERIODIC TENANCY

A landlord **must** give the tenant 90 days written notice to be effective on the last day of the tenancy year.

A tenant **must** give the landlord 60 days written notice to be effective on the last day of the tenancy year.

❖ SECTION 11 – NOTICE TO TERMINATE THE TENANCY OF AN EMPLOYEE

When a periodic tenancy of residential premises has been entered into by reason of the tenant's employment by the landlord and that employment is terminated, either the landlord or the tenant may terminate the tenancy by serving notice on the other party. The notice **must**:

1. be in writing,
2. give the address of the residential premises,
3. be signed by the party giving the notice,
4. state the reasons for the termination of the tenancy, and
5. set out the date that the tenancy will terminate.

HOW MUCH NOTICE HAS TO BE GIVEN TO TERMINATE THE TENANCY OF AN EMPLOYEE TENANT?

The amount of notice a landlord or tenant **must** give to terminate the tenancy has to be the longest of:

- The amount of notice that is required by law to terminate the tenant's employment,
- the amount of notice to terminate the employment that has been agreed to by the landlord and the tenant

or

- one week.

If the landlord is terminating the tenancy because of significant damage, assault, or threats of assault, the landlord can apply to the court or RTDRS for an order terminating the tenancy or the landlord can serve the tenant with a notice to terminate at least 24 hours before the termination date and time.

❖ SECTION 12 – TERMINATION FOR CONDOMINIUM CONVERSIONS

A landlord may end a periodic tenancy with notice if the landlord is converting the residential premises into a condominium.

HOW MUCH NOTICE TO TERMINATE DOES A LANDLORD HAVE TO GIVE A TENANT FOR CONDOMINIUM CONVERSIONS?

If the premises **must** be vacant because a landlord intends to convert the rental premises to a condominium unit, the landlord must give at least 365 days written notice to the tenant before the day the tenancy is to end.

The landlord's notice to the tenant **must**:

- be in writing,
- give the address of the residential premises,
- be signed by the landlord,
- state the reason for the termination, and
- set out the termination date.

No rental increases are allowed during that year.

If the landlord gives less than 365 days notice to terminate a tenancy when converting the premises into a condominium or increases the rent after giving the notice, the landlord has committed an offence under the RTA. A written complaint can be made to Service Alberta and Red Tape Reduction, (see "[Filing a Consumer Complaint](#)" information sheet). A tenant may pursue a landlord for compensation through court or RTDRS.

❖ SECTION 15 – TERMINATION OF FIXED TERM TENANCIES

A fixed term tenancy ends on the day specified in the residential tenancy agreement, unless both parties agree to an early termination. For example, if the fixed term is from January 1 to December 31, the tenancy automatically ends on December 31. Unless the tenant and landlord make other arrangements, the tenant must move out by noon on December 31.

The RTA does **not** require any notice to be given by a landlord or tenant to end a fixed term tenancy. It is courteous if the tenant or the landlord provides a reminder before the end of the tenancy agreement.

A landlord is **not** obligated to accept a tenant's notice to terminate a fixed term tenancy before the end of the fixed term, but may agree to an early termination, or an assignment or sublease. A landlord **must** have reasonable grounds to refuse an assignment or sublease. The RTA prohibits a landlord from charging a fee for giving consent to an assignment or sublease of a residential tenancy agreement.

If a tenant ends a fixed term tenancy before the termination date, the landlord is entitled to be paid rent from the tenant until the residential tenancy agreement ends. However, the landlord **must** take reasonable steps to re-rent the unit. If the landlord rents the premises to a new tenant, the old tenant is no longer responsible to pay the rent from the date of the new tenancy.

At the end of the fixed term agreement, the landlord and tenant may both want to continue the tenancy. At this time, they can negotiate a new residential tenancy agreement that could include a change in the rent amount, security deposit amount and the conditions of the tenancy. This agreement can be a new fixed term or be changed to a periodic tenancy.

If the parties do **not** notify each other of their intention to continue the tenancy or to end the tenancy, difficulties may arise. For example, the landlord may be expecting the tenant to leave at the end of the fixed term and may have plans for the premises.

The RTA says that if, at the end of the fixed term tenancy, the tenant doesn't move out and the landlord accepts the tenant staying on and continuing to pay rent, then, unless there are agreements or facts in the arrangement that indicate otherwise, the tenancy switches to a periodic tenancy.

The periodic tenancy becomes a monthly periodic tenancy if the fixed term tenancy was for a month or more.

If the fixed term tenancy was for a fixed term of less than one month, then the periodic tenancy becomes a weekly periodic tenancy.

Some fixed term tenancy agreements include a provision for renewal of the tenancy for an additional fixed term at the end. Such provisions usually include a requirement for the tenant and landlord to provide a period of written notice to each other about whether they wish to renew for a further fixed term.

❖ SECTION 28 – TERMINATION OF TENANCY FOR SUBSTANTIAL BREACH BY LANDLORD

Whether the tenancy is fixed term or periodic, the RTA states that a landlord commits a substantial breach when the residential premises is **not** kept in the condition that meets the minimum housing standards under the *Public Health Act* and regulations.

HOW MUCH NOTICE TO TERMINATE DOES A TENANT HAVE TO GIVE TO A LANDLORD WHO COMMITS A SUBSTANTIAL BREACH?

A tenant may apply to a court or RTDRS to terminate the tenancy or may terminate the tenancy by serving the landlord with a notice at least 14 clear days before the day that the tenancy is to terminate where:

- (a) the landlord commits a substantial breach **of the residential tenancy agreement, and**
- (b) an executive officer has issued an order under section 62 of the *Public Health Act* in respect of the circumstances that constitute the substantial breach, and the tenant believes on reasonable grounds that the landlord has failed to comply with the order.

The notice **must**:

1. be in writing,
2. give the address of the premises,
3. be signed by the tenant,
4. state the reasons for the termination, and
5. set out the termination date.

14 clear days notice means that the day the notice is served on the landlord and the termination date do not count as part of the 14 days, so the notice must actually be served 16 days prior to the termination.

The notice to terminate is **not** binding if, within seven days from the date a landlord receives the notice to terminate from a tenant, the landlord serves the tenant with a written notice of objection. The only reasons the landlord can object are:

- the landlord has actually complied with the order, or
- the landlord has been granted a stay of the order.

A NOTICE OF OBJECTION MUST BE PROPERLY SERVED FOR IT TO BE EFFECTIVE

❖ SECTION 29 – TERMINATION OF TENANCY FOR SUBSTANTIAL BREACH BY TENANT

Whether the tenancy is fixed term or periodic, the tenant **must**:

- Pay the rent in full when it is due.
- Not interfere with the landlord or the landlord's employees, or interfere with or disturb other tenants in their residential premises or in the common areas, e.g., playing loud music well into the night or being noisy.
- Not perform illegal acts or carry on any illegal business or occupation in the residential premises or in the common areas.
- Not endanger anyone in the building or in the common areas.
- Not cause or allow significant damage to the residential premises or the common property.
- Maintain the residential premises and all property included in the residential tenancy agreement in a reasonably clean condition.
- Vacate the residential premises when the tenancy ends.

If a tenant does **not** live up to the above responsibilities, they have committed a “substantial breach” and the landlord has grounds to terminate the tenancy. Tenants can also commit a “substantial breach” if they commit a series of smaller violations of the RTA or their residential tenancy agreement that add up to a substantial effect. This only applies to tenants, and not to landlords.

❖ SECTION 47.1-47.7 TERMINATION OF TENANCY FOR DOMESTIC VIOLENCE

When a tenant is a victim of domestic violence, they may apply for a certificate to end a tenancy early and without financial penalty. The certificate is referred to as the Safer Spaces certificate.

These rules apply in cases where if the tenancy continues:

- the tenant's safety is at risk,
- a dependant child's safety is at risk, or
- a protected adult's safety is at risk.

The Termination of Tenancy (Domestic Violence) Regulation allows the Director to appoint a Designated Authority to receive an application from, and issue a certificate, to a victim of domestic violence. This Safer Spaces certificate confirms that there are grounds to terminate the tenancy and is used by the tenant to give notice to their landlord that they are terminating the tenancy.

The Designated Authority can also help individuals find other supports, such as emergency shelters and financial assistance for victims of domestic violence. The Ministry of Seniors, Community and Social Services has been appointed the Designated Authority for the purposes of the legislation and contact information for the Designated Authority is provided on the final page of this handbook.

UNDERSTANDING DOMESTIC VIOLENCE

Domestic violence includes any of the following:

<p>Physical Abuse</p> <ul style="list-style-type: none"> • The use of physical force that may result in pain or injury. This includes pushing, shoving, kicking, slapping, biting, strangling, hitting, etc. • Being locked out or denied access to the home. • Denied help when ill, injured or pregnant. • By physical force not being allowed to leave. • Weapons or objects being used against an individual. • Abandoned in a dangerous situation. 	<p>Emotional/Psychological abuse</p> <ul style="list-style-type: none"> • Threats to harm an individual, their family or pets. • Manipulation through lies and contradictions. • Being ridiculed for an individual's beliefs, race, heritage, class, religion or sexual orientation. • Being convinced they are to blame for the abuse. • Stalking.
<p>SEXUAL ABUSE</p> <ul style="list-style-type: none"> • Forced to have sex or watch sexual acts. • Forced or pressured to perform sexual acts or have sexual acts performed on them. • Forced to have sex after a physical assault, when they are ill, or as a condition of the relationship. 	<p>ECONOMIC ABUSE</p> <ul style="list-style-type: none"> • Partner controls all of the finances. • Prevented from getting or keeping a job or from going to school. • Denied access to bank accounts, credit cards or vehicle. • Limited access to health, prescription or dental insurance.
<p>DOMESTIC VIOLENCE IS COMMITTED BY:</p> <ul style="list-style-type: none"> • A current or past spouse or partner. • A person they are dating or have dated. • The biological or adoptive parents of one or more children with that person, regardless of marital, cohabitation, or dating status. • A person who has care and custody over them pursuant to an order of a court. 	

INFORMATION FOR TENANTS

If you are a victim of domestic violence, there are steps you can take to end your tenancy:

1. Apply for a Safer Spaces certificate through the Designated Authority in Seniors, Community and Social Services confirming termination of the tenancy. To issue the certificate, the Designated Authority will require **one** of the following documents:
 - A copy of an emergency protection order or King's Bench protection order, a restraining order, a peace bond, or another court order that stops the alleged perpetrator from contacting the tenant, or
 - a statement from a professional affirming the tenant has reported a risk to their safety, the safety of a dependent child or protected adult. For example, you can ask for a statement from a doctor or nurse.

Below is a full list of professionals who can provide a statement.

- a) A regulated member of the:
 - College of Physicians and Surgeons of Alberta
 - College and Association of Registered Nurses of Alberta
 - Alberta College of Social Workers
 - College of Alberta Psychologists
 - College of Registered Psychiatric Nurses of Alberta
- b) A police officer or member of the Royal Canadian Mounted Police (RCMP)
- c) An individual employed by an organization who:
 - assists individuals by providing accommodation in an emergency or transitional shelter because of homelessness or abuse; or,
 - provides support for victims of crime (such as Victims Services).

After receiving one of these documents, the Designated Authority may issue a certificate.

2. Provide your landlord with the certificate and a written notice to terminate the tenancy. You must provide at least 28 days notice. The notice must be in writing, be signed by the tenant, set out the termination date, and be given no later than 90 days after the certificate is issued. The notice must be served personally or by registered mail.

Once these steps have been completed, the tenancy agreement will be terminated on the date stated in the notice. Tenants are still responsible for paying rent during the period of notice and can request that the landlord apply the security deposit as a payment of rent for the notice period.

INFORMATION FOR LANDLORDS

The following is important information landlords should be aware of:

- A landlord must ensure that any information received from or about a victim of domestic violence is kept confidential unless the landlord is authorized by the tenant to disclose that information. Confidential disclosures to a court or RTDRS, law enforcement, the landlord's lawyer, or to an authorized Government of Alberta official are permitted. For example:
 - A landlord cannot talk to other tenants about the victim's situation or why they are moving out.
 - A landlord may be required to disclose information in connection with an investigation or prosecution.
- The tenant is still required to pay rent during the notice period (at least 28 days). If requested by the tenant, a landlord must apply the security deposit as a payment of rent for the notice period.
 - This does not prevent a landlord from seeking reimbursement for previous rent or utility arrears, or costs for damage to premises.
- If other tenants are listed on the current tenancy agreement, these tenants would be notified of the termination by the landlord. The tenancy agreement is terminated for all tenants living in the rental unit. As the landlord, you can choose to enter a new rental agreement with the remaining tenants.

A landlord may apply to court or the Residential Tenancy Dispute Resolution Service (RTDRS) to set aside a notice to terminate only on the following grounds:

- The tenant did not provide proper notice of termination. Tenants are required to provide at least 28 days notice along with the signed certificate from the designated authority confirming there are grounds for terminating the tenancy.
- The tenant did not properly serve the notice and certificate to the landlord in person or by registered mail.
- The notice is not in writing, or not signed by the tenant, or does not include the date that the tenancy will terminate.
- The notice to terminate is served more than 90 days after the date on which the certificate was issued.

To file a dispute or claim damages, you may apply to the RTDRS or Alberta Court of Justice.

For more information, please visit our website <https://www.alberta.ca/safer-spaces-certificate.aspx>

INFORMATION FOR TENANTS LIVING AT THE SAME RESIDENTIAL PREMISES AS A VICTIM

When a lease is terminated due to domestic violence, it means the tenancy agreement of everyone living with the victim will be terminated too. The victim is not responsible for telling other tenants that the tenancy is being terminated but can if they feel comfortable doing so. The landlord may establish a new lease with the other tenants but does not have to. It is recommended that the other tenants consult the landlord respecting entering into a new tenancy agreement if they would like to remain living at the premises.

HOW MUCH NOTICE TO TERMINATE DOES A LANDLORD HAVE TO GIVE A TENANT WHO COMMITS A SUBSTANTIAL BREACH?

If a tenant commits a substantial breach, the landlord can apply to court or RTDRS for an order terminating the tenancy or can serve the tenant with a notice to terminate at least 14 clear days before the termination date stated in the notice. **The day the notice is given and the day of moving out cannot be included in the 14 days, bringing the total required notice to 16 days.** The landlord's notice to the tenant **must**:

1. be in writing,
2. give the address of the residential premises,
3. be signed by the landlord or agent,
4. separately set out the rent that is due and any more rent that may become due during the notice period,
5. state the reason for the termination, and
6. set out the termination date.

The landlord's notice to terminate is **not** binding if the tenant serves the landlord with a written notice setting out the reasons why the tenant objects to the termination notice.

- The tenant's notice of objection must be served before the termination date set out in the notice to terminate.
- A tenant **cannot** object to a termination notice that is for non-payment of rent but can render it ineffective if they pay all rent owing before the termination date on the notice.
- A tenant's notice of objection **must** be properly served for it to be effective.

- A termination notice must give the tenant 14 clear days (16 actual days) before the tenant must leave the residential premises. The day the notice is served on the tenant and the day the tenant moves out do **not** count as part of the 14 days.

If the landlord's notice to terminate the tenancy is for non-payment of rent, the notice to terminate has to state that the tenancy will **not** be terminated if the tenant pays the outstanding rent owing on or before the termination date set out in the notice.

The notice to terminate is **not** binding and is no longer effective if the tenant pays the rent before the 14 days are up.

If a landlord gives notice and the tenant does **not** move out, the landlord must apply for a court or RTDRS order to terminate the tenancy and get possession of the residential premises. If the tenant continues to refuse to move out after the landlord obtains an order to recover possession, the Alberta Court of Justice or RTDRS order must be filed with the Court of King's Bench and served on the tenant before it can be enforced. For example, the landlord can hire a civil enforcement agency to enforce the order and remove the tenant and their belongings if the tenant has **not** vacated the rental premises by the date stated in the filed order. Further information is available from the Court of King's Bench. Landlords are never allowed to physically remove an overholding tenant or their belongings without civil enforcement, and must comply with all requirements in the RTA, including restrictions on entry and changing locks while the tenant still lives in the unit.

A civil enforcement agency has the authority to remove an occupant from the residential premises, though police may be present to ensure the civil enforcement bailiffs are able to complete their work. No one other than a civil enforcement bailiff is allowed to remove the tenant or their belongings. The landlord will be required to provide a filed copy of the Order for Recovery of Possession, as well as the affidavit of service to the civil enforcement agency.

❖ SECTION 30 – TERMINATION OF TENANCY FOR DAMAGE OR ASSAULT (24-HOUR NOTICE)

A tenant **must not** do, or permit significant damage to the property, or physically assault, or threaten to physically assault, the landlord (or the landlord's employee or agent) or another tenant.

HOW MUCH NOTICE DOES A LANDLORD HAVE TO GIVE A TENANT FOR DAMAGE OR ASSAULT?

The landlord can apply to the court or RTDRS for an order terminating the tenancy, or the landlord can serve the tenant with a notice to terminate at least 24 hours before the termination date stated in the notice. The landlord's notice to the tenant **must**:

1. be in writing,
2. give the address of the residential premises,
3. be signed by the landlord,
4. state the reason for the termination, and
5. set out the termination date and time.

If a landlord is apprehensive that even more damage, or further assaults, are likely to occur in the 24-hour notice period, the landlord can go to court or RTDRS seeking an order for the immediate possession of the residential premises and removal of the tenant. The landlord should have evidence to present.

If a landlord serves a 24-hour notice, and the tenant does **not** vacate the residential premises within the notice period, the landlord **must**, within 10 days of the date of termination specified in the notice, apply to court or RTDRS for an order to end the tenancy and to get vacant possession of the residential

premises. If the landlord does **not** make the court application within the 10 days following the date of termination, then the 24-hour notice is **not** binding. In other words, the landlord is considered to have never given a notice to terminate.

❖ SECTION 33 – NOTICE TO VACATE TO NON-TENANT (48-HOUR NOTICE)

If the tenant has abandoned the residential premises (repudiation of tenancy) but there is an unauthorized occupant living in the property, a landlord can serve a notice to vacate to the person(s) **not** authorized to live there.

The landlord may still be entitled to the rent that is owed for the remainder of the tenancy agreed to in the residential tenancy agreement from the tenant, if

- The tenant abandons the residential premises before the end of the tenancy.
- The tenant does **not** give the proper notice to end a periodic tenancy.
- The tenant moves out before the end of the fixed term tenancy.

If a landlord accepts rent from an unauthorized occupant that occupant may then be seen as a tenant as the landlord would not accept rent from anyone who is not a tenant of their rental unit. The RTA recognizes implied and verbal tenancy agreements as valid, and all landlord and tenant rules under the RTA apply to these types of agreements.

HOW MUCH NOTICE TO VACATE DOES A LANDLORD HAVE TO GIVE AN UNAUTHORIZED PERSON IF A TENANT HAS ABANDONED THE PREMISES?

The landlord can serve the unauthorized person with a 48-hour notice to vacate. The landlord's notice to the unauthorized person **must**:

1. be in writing,
2. give the address of the residential premises,
3. be signed by the landlord or the landlord's agent, and
4. set out the termination date and time.

If the unauthorized person does **not** vacate within the 48 hours, the landlord can apply to court or RTDRS for an order terminating the tenancy of the tenant who abandoned the residential premises and for recovery of possession from the unauthorized person who is living there. This does **not** prevent the landlord from applying to court or RTDRS to recover damages from the tenant.

❖ SECTION 36 – NOTICE TO VACATE TO NON-TENANT (14-DAY NOTICE)

A landlord can serve a notice to vacate to an unauthorized person living in a residential premises that is still occupied by a tenant.

HOW MUCH NOTICE TO VACATE DOES A LANDLORD HAVE TO GIVE AN UNAUTHORIZED PERSON IF THE RESIDENTIAL PREMISES ARE OCCUPIED BY A TENANT?

The landlord can serve the non-tenant with 14 clear days notice (16 total days) to vacate. The landlord's notice to the non-tenant **must**:

1. be in writing,
2. give the address of the residential premises,
3. be signed by the landlord, and
4. set out the termination date and time.

If the non-tenant does **not** vacate within the 14 days, the landlord can apply to court or RTDRS for an order for the non-tenant to vacate the residential premises.

The notice to vacate has to give the non-tenant 14 clear days before the non-tenant leaves the residential premises. The day the notice is served on the non-tenant and the day the non-tenant moves out do **not** count as part of the 14 days.

❖ SECTION 38 – POSSESSION UNOBTAINABLE

If a tenant has been unable to move in because the residential premises is **not** available from the landlord or because the premises do **not** meet the minimum standards under the *Public Health Act* and regulations, the tenant has the right to repudiate the residential tenancy agreement. The tenant may do one or more of the following:

- Repudiate the residential tenancy agreement.
- Apply to the Court of King’s Bench for an order requiring the landlord to comply with the minimum health standards and provide the premises to the tenant.
- Recover general damages resulting from the landlord’s breach.
- Recover special damages resulting from the breach if the landlord could reasonably have foreseen that those damages would be a consequence of the breach.

In other words, the tenant can ask the judge for an award of damages for losses caused by the landlord for **not** providing the premises on the day agreed to. If the landlord could reasonably have known that the tenant would suffer damages by **not** providing the premises, the tenant can ask the court for special damages.

The tenant should have compelling evidence and proof of damages to present to the court. The tenant may wish to retain legal counsel.

FORMS

Notice to terminate and notice to vacate forms are available at a nominal cost from the Calgary Residential Rental Association or the Alberta Residential Landlord Association.

The notice (and objection to the notice) must be in writing and contain everything that the RTA requires. The RTA lists the content for the notices in the Residential Tenancies Ministerial Regulation. Landlords and tenants are free to prepare a form of notice that best suits their particular needs as long as the form has the required content. The notice **cannot** take away any of the rights, benefits or protections contained in the RTA or regulations.

NORMAL WEAR AND TEAR

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

1(1)(f) landlord definition

1(1)(l) residential premises definition

1(1)(m) residential tenancy agreement definition

1(1)(t) tenant definition

16(c) landlord’s covenants

21 tenant's covenants

37 tenant's remedies

46(1)(b) normal wear and tear definition

46(5) deductions from security deposit

There are no sections in the Residential Tenancies Ministerial Regulation relating directly to "normal wear and tear".

GUIDELINES

Normal wear and tear is defined in the RTA as deterioration that takes place over time from the use of the residential premises, even when the tenant provides reasonable care and maintenance.

The residential premises are the landlord's property and naturally, the landlord wants and expects them to be looked after and kept clean and in good repair. However, over time, even with the best care and attention by the tenant, things wear out.

The tenant should maintain the residential premises in a condition that is, at the very least, no worse than it was when the tenant moved in, allowing for normal wear and tear.

The landlord can conduct periodic inspections to confirm that the tenant is **not** damaging the premises and is keeping them in a reasonably clean condition (see **LANDLORD'S RIGHT OF ENTRY** section).

The RTA and *Public Health Act* require landlords to ensure that the residential premises meet certain standards at all times. The Minimum Housing and Health Standards that the landlord **must** meet are contained in the Housing Regulation and Nuisance and General Sanitation Regulation, both under the *Public Health Act*.

In addition, it is a covenant of every residential tenancy agreement that the tenant will ". . . **not** do or permit significant damage to the premises, the common property [and] the tenant will maintain the premises and any property rented with it in a reasonably clean condition".

Typically, the tenant is responsible for looking after the residential premises, but the tenant is **not** responsible for everything in the residential premises. The plumbing, heating/air conditioning, and electric services are some examples of systems within the premises that the landlord is responsible for maintaining as per the Minimum Housing and Health Standards. However, this does **not** take away the tenant's obligation **not** to damage those systems. It also does **not** relieve the tenant of liability for repair or losses if they or a family member or guest, or even a pet, cause damage to the residential premises.

The tenant also has the responsibility to inform the landlord if anything in the residential premises needs repair or replacement. It is a good idea for the tenant to put their request for repairs in writing and keep a copy. A landlord should respond to a request from a tenant for repairs within a reasonable period of time. In some cases, tenants may elect to have landlord's repairs completed and then apply to court to be compensated for the cost of performing the landlord's obligations. Repair expenses **cannot** be deducted from rent without a court or RTDRS order unless agreed to by both parties.

One way to reduce, if **not** eliminate, most of the potential areas of dispute is for both the landlord and tenant to be clear on responsibilities for maintenance of the residential premises from the start of the tenancy. The residential tenancy agreement should say what the landlord is responsible for looking after and repairing and what the tenant is responsible for taking care of and repairing.

A landlord **cannot** make deductions from a security deposit for expenses related to restoring or repairing normal wear and tear, even if there is a clause saying the opposite in a residential tenancy

agreement. The RTA protects the security deposit from deductions for normal wear and tear as the RTA requires landlords to complete move-in and move-out inspection reports so the landlord and tenant can determine whether there are needed repairs resulting from the tenant's actions or negligence. If the inspection reports are **not** completed, the landlord is **not** entitled to make deductions from security deposits to cover repair expenses even if the damage goes beyond normal wear and tear. However, the clause will allow the landlord to apply to court or the RTDRS for a remedy to compensate for losses caused by the tenant. Landlords who have fully complied with the rules regarding inspection reports can make deductions from security deposits for most conditions the tenant agrees to, other than normal wear and tear.

The cleaning of carpeting or rugs is one of the main sources of conflict between landlords and tenants and is not specifically addressed by the RTA. Generally, the tenant will have to agree to professional cleaning as a condition of the tenancy agreement for the landlord to charge the tenant for it. Pet soiling or other significant dirt or residue may constitute damage beyond normal wear and tear, and the landlord may require professional steam cleaning before the premises is suitable for another tenant to move in. However, this does not entitle a landlord to charge professional cleaning costs to every tenant without their consent.

The landlord **cannot** charge a tenant for the total replacement of a worn-out carpet or rug simply because that particular tenant happened to be leaving at a time when the replacement is required.

Spilled liquids, cigarette burns, oil stains or mud tracked onto carpets may be occurrences of everyday living, but they are **not** normal wear and tear. The overall deterioration to the carpet from repeated cleanings is normal wear and tear.

Hanging pictures on walls is an issue between landlords and tenants. Consideration **must** be given to both the number of pictures that are hung on the walls, and the manner in which they are hung. A tenant should check with the landlord regarding what is acceptable.

A tenant who rents a single-family home, townhouse or duplex, and has the exclusive use of the yard or part of the yard, is generally responsible for routine yard maintenance and snow removal. The parties may agree to arrangements for ongoing maintenance in the residential tenancy agreement.

A landlord has to maintain the residential premises in good repair in compliance with all building, health, fire and safety standards and is required to perform any other obligations outlined in the residential tenancy agreement.

If a landlord does **not** fulfill the landlord's obligations, the tenant may apply to court or RTDRS for one or more of the following remedies:

- a) Recovery for damages because of the breach or contravention by the landlord.
- b) Reduction in rent (abatement of rent) if the tenant has lost a benefit of the tenancy.
- c) Compensation for the cost of performing the landlord's obligations, or
- d) termination of the tenancy by reason of the breach or contravention if, in the opinion of the court, the breach or contravention should cause the tenancy to be terminated.

A tenant who shows the landlord that they are responsible and will look after the residential premises will have fewer problems during the tenancy.

ABANDONED GOODS

STATUTORY REFERENCES

Residential Tenancies Act (RTA) sections:

1(1)(f) definition of landlord

1(1)(t) definition of tenant

1(1)(l) definition of residential premises

31 abandoned goods

Residential Tenancies Ministerial Regulation sections:

5 abandoned goods

6 establishing tenant's liabilities

GUIDELINES

This section of the RTA does **not** apply to the goods left at residential premises when an Order for Recovery of Possession is executed by a civil enforcement agency. These goods are to be handled in accordance with the [Alberta Rules of Court \(Reg 124/2010\)](#) and [Alberta Rules of Court Volume 2](#).

Abandoned Goods are goods that are left at residential premises by a tenant who has

- abandoned the premises, or
- vacated at the end of the tenancy, as it may have expired or been terminated, but left their things behind.

GOODS VALUED AT LESS THAN \$2,000

If a landlord believes that the total market value of the goods is less than \$2,000, then the landlord can dispose of the goods.

GOODS VALUED AT MORE THAN \$2,000

If a landlord believes that:

- it would be unsanitary or unsafe to store the goods, or
- that storage of the goods would result in total or substantial depreciation of the total market value, or
- the cost of removing, storing and selling the goods would exceed the proceed of their sale,

the landlord may then sell the goods in a way and for a price that the landlord believes is reasonable.

Unless the previously stated conditions are met, the landlord **must**:

- store the goods or arrange for storage of the goods on behalf of the tenant for 30 days from the day the goods were abandoned, and
- after the 30 days have passed, the landlord may dispose of the goods by public auction or if the courts or the Residential Tenancy Dispute Resolution Service (RTDRS) approve, by private sale. If at public auction the goods are **not** bid on, then the landlord can dispose of them.

The landlord is **not** personally liable for goods that are sold or disposed of if those goods are sold or disposed of in accordance with the legislation.

The person that acquires the abandoned goods through their disposal or sale by the landlord then has rights over those goods and becomes the owner of those goods. The tenant who abandoned the goods is no longer the owner.

If a tenant pays the landlord what the landlord is owed while the landlord still has the goods and pays the landlord for the cost of having to remove and store the goods, the landlord **must** then return the tenant's goods.

If the landlord sells the goods, they can use the money from the sale of the goods:

- to cover their expenses when removing, storing and selling the goods, and
- to cover the money owed to them by the tenant (called tenant's liability under the Residential Tenancies Ministerial Regulation), if money is owed to them by the tenant in accordance with the requirements under the Residential Tenancies Ministerial Regulation.

The Residential Tenancies Ministerial Regulation, section 6(2) states a "*tenant's liability is established for rent* when the landlord makes an affidavit that sets out the amount of rent owing and sends a copy of that affidavit *to the tenant's last known address*". The landlord **must** also provide a copy of that affidavit to the Director of Residential Tenancies.

The Residential Tenancies Ministerial Regulation, section 6(3) states that a tenant's liability is established for damages when:

- The landlord makes an affidavit that sets out:
 - the damage to the premises done by the tenant,
 - the cost of the repairs, and
 - the cost for materials along with the receipts as exhibits to prove the expenses.

If the landlord completed the work themselves, labour can be charged at a reasonable cost. The landlord **must** also provide a copy of that affidavit to the Director of Residential Tenancies.

The Residential Tenancies Ministerial Regulation, section 6(4) also states that "*a tenant's liability is established if the landlord obtains a judgment from the Courts*". This includes judgments from the RTDRS.

Any monies left over after the landlord has recovered what is owed to them **must** be sent to the Minister of Service Alberta and Red Tape Reduction.

The Minister will then hold that money in trust for one year. After that year has passed, the tenant will no longer have any claim to that money, which will be paid into general government revenues.

Landlords are not permitted to profit from the sale of abandoned goods.

A landlord is required to keep a written record of the storage, disposition and sale of the goods. The RTA sets out exactly what **must** be included in the record. These records **must** be kept by the landlord for a period of three years after the goods are returned to the tenant, sold or disposed of.

PRACTICAL APPLICATIONS

Example: a landlord believes that their tenants have abandoned the residential premises. The landlord provides a 24-hour notice of entry then enters the house the next day. He finds that the tenant has left behind a living room set including a large sectional sofa that is infested with bedbugs. While the living room set is likely valued at over \$2,000 it is unsanitary to keep and would be expensive to fumigate. Therefore, the landlord may dispose of the goods.

Example: a landlord collects \$5,000 from the sale of a tenant's abandoned goods at an auction. The expenses incurred by the landlord for removing, storing and selling the items were \$3,000. The landlord **must pay** the remaining \$2,000 to the Minister, which will then be held in trust for the tenant for one year. The landlord **must** also create a written record of the storage, and disposition or sale of the goods. Those records **must** conform to the requirements under section 31(13) of the RTA and **must** be kept by the landlord for three years.

RECREATIONAL USE OF CANNABIS

Recreational use of cannabis (or marijuana) became legal in Canada on October 17, 2018. Landlords and tenants who live in multi-family dwellings should be aware of any restrictions surrounding cannabis or smoking in general. These restrictions should be clearly set out in the rental agreement.

A landlord or condo board may prohibit the smoking of all substances including cannabis in their buildings or on their properties. Occupants should not smoke cannabis or other substances in prohibited premises. Non-smoking consumption; however, may be permitted, but renters and condo occupants should check applicable rules. Section 53 of the *Condominium Property Act* requires tenants renting a condo to comply with all condo bylaws, whether or not they are included in the tenancy agreement.

A landlord may also prohibit the growing of cannabis in the rental agreement.

MEDICAL USE OF CANNABIS

Restrictions on medical cannabis use in rental properties has not been addressed in Alberta court or through legislation. Tenants who use medical cannabis have several smoke-free options for consumption, including edibles, oils, etc. Landlords enforcing rules against smoking are therefore not preventing tenants from using medical cannabis, only limiting the methods to those that do not pose health risks or nuisances to other residents. If the tenant continues to violate the rules/bylaws by smoking, this may constitute a substantial breach of the tenancy agreement and the landlord may apply to terminate the tenancy.

ALBERTA HUMAN RIGHTS ACT AND AGE RESTRICTIONS

Changes to the *Alberta Human Rights Act* effective January 1, 2018, include age as a protected ground under the area of accommodation. Age is defined as 18 years or older. Age restrictions will not be permitted in rental buildings after January 1, 2018, unless the landlord chooses to convert the building to seniors-only. Seniors-only is set at 55 years or older, where at least one member of the household is 55 years or older. Condominium corporations, co-operative housing units and mobile home site landlords will be allowed a 15-year transition period, which ends on December 31, 2032.

RTA OFFENCES

An enforcement action for a chargeable offence under either the Act or the regulations may be a written warning, violation ticket with a specified penalty (no court appearance required), or mandatory court appearance.

The following chart list the chargeable offences under the *Residential Tenancies Act*, the Residential Tenancies Ministerial Regulation and the Subsidized Public Housing Regulation, which a landlord may be charged or fined. Beside each offence is the maximum fine on conviction of the offence as well as the specified penalty for a violation ticket.

The Procedures (Residential Tenancies) Amendment Regulation under the *Provincial Offences Procedure Act* specifies the penalties that are payable.

CHARGEABLE OFFENCES UNDER *THE RESIDENTIAL TENANCIES ACT*

Section	Description of the Offence	Maximum Fine on Conviction (each offence)	Ticket Specified Penalty
6(2)	Failing to use the premises for the reason set out in the notice to terminate a periodic tenancy within a reasonable time after the tenant moves out.	\$5,000	\$250
7	Failing to give minimum required notice to terminate a periodic weekly tenancy for major renovations,	\$10,000	N/A
8	Failing to give minimum required notice to terminate a periodic monthly tenancy for major renovations.	\$10,000	N/A
9	Failing to give minimum required notice to terminate a periodic yearly tenancy for major renovations.	\$10,000	N/A
11	Failing to give minimum required notice to terminate the tenancy of an employee.	\$10,000	N/A
12	Failing to provide a periodic tenant with termination notice of 365 days to obtain vacant possession for condominium conversion.	\$10,000	N/A
14	Failing to give minimum required notice of a rent increase.	\$10,000	N/A
18	Failing to provide a "notice of landlord".	\$5,000	\$150
19(6)	Failing to retain inspection records for at least three years after the termination of the tenancy or make them available to the Director for purposes of an inspection or investigation.	\$5,000	\$150
23	Failing to give proper notice of entry.	\$5,000	N/A

24	Failing to provide a tenant or landlord with a key when the locks have been changed.	\$5,000	\$400
25	Terminating a tenancy because the tenant makes a complaint under the <i>Residential Tenancies Act</i> or the <i>Public Health Act</i> or taking retaliatory action against a tenant including the imposition of a financial penalty.	\$5,000	N/A
31(13)(14)	Failing to keep records of the disposition of abandoned goods for at least three years.	\$5,000	\$150
43	Taking more than one month's rent as a security deposit or raising the amount.	\$5,000	\$150
44(1)	Failing to put security deposits into a trust account within two banking days.	\$5,000	\$250
44(3)	Putting money that is not a security deposit into the trust account.	\$5,000	\$250
44(5)(6)	Failing to keep records of security deposits and make them available to the Director for purposes of inspection or investigation for at least three years after the termination of a tenancy.	\$5,000	\$150
45	Failing to pay interest on a security deposit. (Refer to the interest chart provided)	\$5,000	\$250
46(2)	Failing to return a security deposit or provide a statement of account within 10 days; or, failing to provide an estimated statement of account and any refund within 10 days.	\$5,000	\$250

CHARGEABLE OFFENCES UNDER THE RESIDENTIAL TENANCIES MINISTERIAL REGULATION

Section	Description of the Offence	Maximum Fine on Conviction (each offence)	Violation Ticket Specified Penalty
2	Terminating a periodic tenancy for any reason other than those set out in the regulation.	\$5,000	\$250
3(1)	Increasing rent for a periodic tenant unless at least 365 days have passed since the last rent increase or since the start of the periodic tenancy, whichever is later.	\$10,000	\$150
3(2)	Serving a rental increase notice after providing notice to terminate the tenancy for condominium conversion or major renovations.	\$10,000	\$150
3(3)	Increasing rent or recovering additional rent during a fixed term tenancy of one year or more.	\$10,000	\$150
3(4)	Increasing rent or recovering additional rent when the same tenant has multiple fixed term tenancies of less than one year, unless 365 days have passed since the tenant first occupied the premises, or since the last rent increase, whichever is later.	\$10,000	\$150
3(5)	Increasing rent before the end of a fixed term tenancy when the tenancy exceeds 365 days.	\$10,000	\$150
4	Failing to include in an inspection report, all the required statements as set out in the regulation.	\$5,000	\$150
5	Failing to keep abandoned goods valued at \$2000 or more for 30 days.	\$5,000	\$150
6	Failing to provide the tenant with an affidavit	\$5,000	N/A

	setting out the amount owing for rent, damages, or repairs to establish the tenant's liabilities.		
7	Non-owner landlord who is sole trustee of security deposit money failing to deposit, hold and administer the security deposit money as required in the regulation.	\$5,000	\$250
8	Failing to invest security deposit money in prescribed investment vehicles.	\$5,000	\$250
9	Failing to retain the security deposit in a trust account until the end of the tenancy.	\$5,000	\$250

CHARGEABLE OFFENCES UNDER THE SUBSIDIZED PUBLIC HOUSING REGULATION

Section	Description of the Offence	Maximum Fine on Conviction (each offence)	Violation Ticket Specified Penalty
4(1)	Taking a security deposit greater than what the tenant would be required to pay for the first month's rent under the residential tenancy agreement.	\$5,000	\$150

EMERGING ISSUES

BED BUGS

Landlords have an obligation to ensure that their rental premises are free of all pest infestations, including insects and rodents. If a landlord has evidence to indicate that a tenant was responsible for a pest infestation, they may apply to court or the RTDRS for financial reimbursement from that tenant for the cost of dealing with the infestation. Tenants who discover a pest infestation should report it to their landlord. If a landlord fails or refuses to address the infestation, tenants may contact Alberta Health Services for a health inspection.

❖ ADDITIONAL RESOURCES

Alberta Residential Landlord Association:

Alberta Residential Landlord Association Bed Bug Guide - https://www.albertal landlord.org/store/c8/Bed_Bug_Guides.html

Alberta Health Services:

Bedbug Inspection, Treatment and Prevent Spread - [How Do I Inspect for Bed Bugs? \(alberta.ca\)](https://www.alberta.ca/how-do-i-inspect-for-bed-bugs/)

RESOURCES AND REFERRAL INFORMATION

COURT AND TRIBUNAL DECISIONS

CanLII is a non-profit organization that provides free access to Canadian laws and legal decisions. Several RTDRS and RTA-related Alberta court decisions are available at <https://www.canlii.org/en/ab/>

You can search for cases heard in Alberta Courts and tribunals pertaining to “residential tenancy”, including those reported under the tribunal “ABRTDRS” (Residential Tenancy Dispute Resolution Service).

ENVIRONMENTAL PUBLIC HEALTH LEGAL PENALTIES AND ORDERS

The Environmental Public Health Program through Alberta Health Services may prosecute owners and operators of public places that continue to use unsafe practices that may endanger people. Orders and court cases are available at this link <http://www.albertahealthservices.ca/eph/Page3150.aspx>

CONSUMER CONTACT CENTRE

For answers to questions and/or referrals on tenancy legislation and issues you can call 780-427-4088 in Edmonton or toll-free in Alberta at 1-877-427-4088. Any questions you have about the RTA can also be e-mailed to rta@gov.ab.ca.

DISPUTE RESOLUTION

Disputes between landlords and tenants can be dealt with through the courts or the Residential Tenancy Dispute Resolution Service (RTDRS). The RTDRS allows landlords and tenants to have their disputes heard outside the court system. For more information contact RTDRS in **Edmonton**: 780-644-3000, or in **Alberta**: Toll-free: 310-0000 (then 780-644-3000). Website: <https://www.alberta.ca/residential-tenancy-dispute-resolution-service.aspx>.

ALBERTA COURT OF JUSTICE

Landlords and tenants who wish to make an application to the court under the RTA should obtain the booklet:

“Notice of Application under the *Residential Tenancies Act* or *Mobile Home Sites Tenancies Act*”. The booklet is available at Alberta Court of Justice locations or online at: <https://albertacourts.ca/pc/areas-of-law/civil/forms>. Additional information on the residential tenancy court process is also available at: <https://albertacourts.ca/cj/areas-of-law/civil/residential-tenancies-process>. The Court of King’s Bench also has the authority to deal with disputes.

COMPLAINTS

Service Alberta and Red Tape Reduction investigates offences and contraventions under the RTA. Contact the Service Alberta and Red Tape Reduction Consumer Contact Centre for information on filing a complaint, or refer to the publication “[Filing a Consumer Complaint](#)”.

Phone: 780-427-4088 in Edmonton or toll-free in Alberta at 1-877-427-4088

Email: rta@gov.ab.ca

KING’S PRINTER BOOKSTORE

You may purchase the RTA and the regulations from the King’s Printer Bookstore. These are also free for you to download in “pdf” or “html” formats. Contact information: Edmonton: 780-427-4952, or toll-free in Alberta: Dial 310-0000 then 780-427-4952. <https://www.alberta.ca/alberta-kings-printer.aspx>.

LANDLORD AND TENANT ORGANIZATIONS AND INFORMATION SERVICES

These organizations provide advice and information to residential tenants and landlords to address tenancy issues. They also make tenancy forms available (for a fee).

Edmonton

Edmonton Supports for Tenants (City of Edmonton tenants only)

780-496-5959

www.edmonton.ca (search Support for Tenants)

Edmonton Community Legal Centre

<https://www.eclc.ca/>

Alberta Residential Landlord Association

Phone: 780-413-9773

<http://www.albertalandlord.org/>

Red Deer

Red Deer - Central Alberta

Community Legal Clinic (CACLC)

403-314-9129

Calgary

Calgary Student Legal Assistance

<http://slacalgary.com/landlordtenant-matters/>

Calgary Legal Guidance

<https://clg.ab.ca/>

Calgary Residential Rental Association

Phone: 403-265-6055

web: <http://www.crra.ca>

OTHER REFERRALS

Residential Tenancies Tipsheets

<http://www.alberta.ca/information-tenants-landlords.aspx>

Centre for Public Legal Education (CPLEA)

Laws for Landlords and Tenants in Alberta

www.landlordandtenant.org

Landlord and Tenant Law in Alberta

[Civil Law Topics — Student Legal Services of Edmonton \(sisedmonton.com\)](http://sisedmonton.com)

The Law Society of Alberta - Lawyer Directory

The Lawyer Directory is an online search tool that lets you find a lawyer based on certain criteria. It provides contact information for more than 10,000 lawyers in Alberta with a vast array of practice areas.

The Lawyer Directory is available at: <https://lsa.memberpro.net/main/body.cfm>

Canada Mortgage and Housing Corporation “Renting a Home”

<https://www.cmhc-schl.gc.ca/en/rental-housing>

Alberta Court of Justice

Civil Forms and Publications

<https://albertacourts.ca/cj/resources/forms/civil-practice-directions-and-forms>

Seniors, Community and Social Services – Alberta Supports

Designated Authority

Email: css.saferspaces@gov.ab.ca

Toll-free Dial 310-0000 then 422-4080

<https://www.alberta.ca/safer-spaces-certificate-apply.aspx>

Family Violence Information Line

310-1818