

- + NOTICE + ILLEGAL ACTIVITY + NON-PAYMENT OF RENT +
- + CAUSE: ONE MONTH NOTICE + CHANGE OF USE +
- + EARLY EVICTION + ORDER TO MOVE OUT +

EVICCTIONS



DO insist on receiving a written eviction notice on a proper government form. DON'T sign a mutual agreement to end tenancy form, unless you want to move out and you do not expect to get compensation for moving.

NOTICE

Your landlord can only evict you for certain reasons set out in law, and must give you written notice. Landlords should use a form from the Residential Tenancy Branch. On the notice, the landlord must provide information required by law, including reasons for the eviction and how you can challenge the eviction. If the landlord does not use this form or provide required information, the notice may not be legal. Check in the forms section of the Residential Tenancy Branch Web site: www.rto.gov.bc.ca. Never ignore an eviction notice, even if you think it is not legal.

Challenging an eviction

You can challenge an eviction by applying for a dispute resolution hearing through the Residential Tenancy Branch. (See Chapter 10, Dispute Resolution.) The eviction notice must state the reason you are being evicted. Each type of eviction has a different notice period to move out. There are time limits for applying to challenge an eviction, so act quickly. Below are the types of evictions, reasons, and number of days you have to move out or challenge the eviction.

What if the landlord doesn't follow the rules?

If the landlord just tells you to get out, or gives you a notice that is not on the proper form, don't ignore it. Write a letter to the landlord and say that the eviction is not legal. Keep the eviction notice and a copy of your letter.

ILLEGAL ACTIVITY

Under the *Residential Tenancy Act* a landlord can evict a tenant for illegal activity. Depending on the severity of the illegal activity the landlord may give the tenant a one month notice to move out, or may apply for a Residential Tenancy Branch order to get the tenant out right away. A tenant does not have to be convicted or even charged with a crime to be evicted for illegal activity. The standard of proof for ending a tenancy for illegal activity is the same as it is for ending the tenancy for cause. It is based on a "balance of probabilities".

What sort of illegal activities can a tenant be evicted for?

Not just any illegal activity is grounds for eviction. In order for a landlord to end a tenancy due to illegal activity the illegal activity must:

- + cause or be likely to cause damage to the landlord's property;
- + adversely affect or be likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property;
- + jeopardize, or be likely to jeopardize, a lawful right or interest of another occupant or the landlord.

While not paying your income tax may be illegal, it would probably not be grounds for eviction. However, running a marijuana grow operation clearly would be grounds for eviction based on the above requirements. For more information about illegal activity that would be grounds for an eviction see the Residential Tenancy Policy Guideline 32 at: www.rto.gov.bc.ca/documents/GL32.pdf. See Sections 47 and 56 of the RTA

EVICTION FOR NOT PAYING RENT

- + It is a 10 day notice.
- + You have 5 days to apply for dispute resolution.

Your landlord can evict you for not paying all or part of the rent. Your landlord must wait at least one day after the rent was due before giving you an eviction notice.

If you get an eviction notice because you did not pay your rent, you have five days to pay. If you pay all the rent within five days of receiving the eviction notice, the notice is canceled and you can stay. Bring a witness or get a receipt to prove you paid the rent. If you don't pay the rent within five days, you must move out at the end of the 10 days from when you received the eviction notice. The landlord can take you to dispute resolution to get back any rent you owe. Being evicted for non-payment of rent does not mean that you do not have to pay the rent. You can be evicted and still owe rent. There are only a few very limited situations when you can withhold rent without an order from the Residential Tenancy Branch. If you have a dispute

with your landlord it is best to pay your rent and deal with the dispute through dispute resolution at the Residential Tenancy Branch. *See Section 46 and 66 of the RTA*

EVICITION FOR CAUSE

- + It is a 1-month notice.
- + You have 10 days to apply for dispute resolution.

The reasons for a one-month eviction are listed on the second or back page of the notice to end tenancy form.

The most common reasons for a one-month eviction notice are:

- + disturbing your neighbours;
- + repeatedly paying your rent late (three times would be considered “repeated”);
- + seriously damaging your place or the building;
- + not fixing damage done by you or your guests within a reasonable time;
- + causing danger to your neighbours, landlord, or landlord’s employees;
- + too many people living in your place;
- + illegal activity that adversely affects the landlord, building or other occupants of the building;
- + breaking a rule in your tenancy agreement and ignoring a written warning from your landlord.

There are other reasons for a one-month eviction. Read the notice form carefully. You can fight this kind of eviction notice. If your landlord isn’t telling the truth, or if you think the situation is not serious enough to evict you, you can ask for an RTB dispute resolution hearing to overturn the eviction notice. You must apply for a dispute resolution hearing within 10 days of receiving the notice. (See Chapter 10, Dispute Resolution.)

If you decide not to fight the eviction, you have one full month (up to the last day of the month following the month you got the notice) before you must move out. Sometimes a landlord puts the wrong date on an eviction notice. If you aren’t sure when you must leave, phone the Tenant Information Line or the Residential Tenancy Branch. *See Sections 47 and 48 of the RTA*

EVICITION FOR “LANDLORD USE” OF PROPERTY

- + It is a 2-month notice.
- + You have 15 days to apply for dispute resolution.

Even if you never had a problem, your landlord can evict you because they want to use the property. The reasons for a two-month eviction are listed on the second or back page of the notice to end tenancy form.

The most common reasons for a two-month eviction notice are:

- + the landlord or the landlord’s children or parents want to move in;
- + your place was sold and the new owner wants to move in (intending to sell or putting the place on the market is not a reason);
- + the landlord wants to demolish the building;
- + the building is being converted to condominiums;
- + the landlord wants to renovate your place and the renovations require that the place is empty;
- + you no longer qualify for a subsidized rental unit. (In this last case you are not entitled to compensation.)

There are other reasons for a two-month eviction. Read the notice form carefully. This kind of eviction notice gives you two full months before you must move out. To fight it, you must apply for a dispute resolution hearing within 15 days of receiving the notice. (See Chapter 10, Dispute Resolution.) *See Section 49 of the RTA*

Permits are needed for most change of use evictions

If your landlord wants to evict you to demolish, renovate or convert your place to another use, they must already have permits from the city. Your municipal hall can tell you which permits your landlord needs, and whether your landlord has them. Some cities and towns have special rules if a landlord wants to evict you to demolish the building. The landlord may also need a permit to evict you for renovations or condominium conversion. You can check this with City Hall.

Compensation or last month free

If you are given an eviction notice for “landlord use” you are entitled to one month’s rent as compensation from your landlord. The landlord must either pay you this money or give you the last month’s rent free.

You can give short notice

Because it isn’t your fault if you’re evicted for landlord use, the law allows you to give short notice to your landlord. You can move out with a minimum of 10 days notice if you find another place before the two months are up. Put your notice in writing. Sign and date the letter to your landlord, and include your current address. Keep a copy of the letter. When you give short notice, you only have to pay for the days that you actually live there (a minimum of 10 days). If you already paid the full month’s rent, your landlord has to pay you back for the days you didn’t live there. You are still entitled to the equivalent of one month’s rent as compensation even if you give your ten day notice to move early.

If the landlord doesn’t do what the notice said

If the landlord does not use the property for the reason stated on the eviction notice, you can ask for compensation. For example, your landlord might evict you because their immediate relative is moving in, but later you find out that the relative didn’t move in. If for at least six months after you moved the place was not used for the purpose stated on the notice, the landlord owes you the equivalent of double your monthly rent.

Leases and evictions for landlord use

If you have a lease (also called a fixed term tenancy agreement), you cannot be evicted for landlord use before the lease runs out. However, if your lease states that at the end of the term of the lease you have to move out, then you have to move out and the landlord does not have to compensate you.

Mutual agreement to end tenancy

A mutual agreement to end tenancy form is a form that both you and your landlord can sign agreeing that your tenancy will end on a certain day. You do not have to sign

this form unless you want to sign it. If you do sign it, then you are agreeing to move out, rather than being evicted. That means that you won't get compensation for moving. It is only a good idea for a tenant to sign a mutual agreement to end tenancy form when you want permission to break a lease or otherwise want to move out early.

EARLY EVICTION

In special cases, your landlord can evict you in a hurry (like in a few days). But the landlord can only do this if you cause an extremely serious problem, for example:

- + threatening or beating up other tenants;
- + doing very serious damage (trashing a place);
- + putting your landlord or other tenants in danger (like starting a fire in your suite);
- + illegal activity that poses an immediate risk to the landlord, building or other occupants.

Your landlord must have an order from the Residential Tenancy Branch to evict you in this way. You will receive a notice of the order of possession hearing. You must go to the hearing if you want to fight the eviction. The landlord does not have to give you an eviction notice before applying for a hearing. *See Section 56 of the RTA*

APPLYING FOR DISPUTE RESOLUTION

To fight an eviction, you must apply for a dispute resolution hearing through the Residential Tenancy Branch, Government Agent, or Service BC Centre (see Chapter 10, Dispute Resolution). There are very short time limits for applying, so act quickly if you get an eviction notice. For information about preparing for dispute resolution, phone the Tenant Information Line.

Vancouver area (604) 255-0546
Outside Vancouver area 1-800-665-1185

ORDER TO MOVE OUT

If the Residential Tenancy Branch doesn't cancel your eviction notice, the RTB dispute resolution officer must grant the landlord an order of possession and you must move out by the date on the eviction notice. The landlord can also apply for an order of possession if you do not dispute the eviction notice within the allowed time period.

If the RTB grants the Order of Possession, your landlord can file it with the BC Supreme Court. The Supreme Court will then give your landlord a "Writ of Possession". The Writ allows your landlord to hire a bailiff to remove you and your belongings. This can happen very fast, even in a day or two.

If a bailiff takes your things you may have to pay all the money you owe your landlord, plus the bailiff's fees, before you get anything back. Don't take chances—at the end of your notice period, make sure you're out!

Remember: Only a bailiff with a Writ of Possession can remove you and your belongings. Your landlord can't throw you out or lock you out. Even the police can't throw you out. The landlord cannot take your furniture or belongings because you haven't paid the rent. A bailiff is a company that has a contract to enforce court orders. In some small towns police can act as a bailiff.

- + GIVING NOTICE + BREAKING A LEASE +
- + CLEANING AND MOVE-OUT INSPECTION +

MOVING OUT



DO give your landlord in writing a forwarding address where your security deposit can be sent. **DON'T** move without giving at least one full month's written notice if you have a month-to-month tenancy agreement.

GIVING NOTICE

The landlord must receive your notice no later than the day before your rent is due. For example, if you pay your rent on the first of the month and you are moving on May 31, your notice must be received on or before April 30. Your notice must be in writing. Include your name and address, and the date you are moving out. Sign and date your letter. Keep a copy for yourself.

Taking back your notice

If you have given written notice that you are moving, and the landlord learns that you will not move on the day that you said you would, the landlord can apply for an order to take possession of the place on the day you were supposed to move. In other words, you can't give notice that you are moving and then change your mind unless the landlord agrees in writing to let you stay.

Short notice

If you don't give your landlord one full month's notice in writing, and your landlord can't find a new tenant right away, you could lose money. Your landlord could keep your security deposit or even try to make you pay the next month's rent. If you are breaking a lease, you could be responsible for rent until the landlord re-rents the place or the lease ends.

Serving notice

The landlord can be the owner or the manager of your building, or even another tenant renting to you. There are different ways to serve the notice to your landlord that you are moving:

- + **1 In person** Give the notice to the landlord at home or at the place where he or she carries on business as a landlord. You can also give the notice to an adult who lives with the landlord, or you can give the notice to the landlord's agent. Bring a witness who has read the notice with you. Write down on your copy of the notice the time, date and place where you delivered it, and get your witness to sign it. Do not give the notice to a child. Make sure you have a witness. The law says the notice is received the same day if you deliver it in person.

- + **2 Post the notice** To post the notice, attach it in a visible spot at the landlord's home, or the place where he or she carries on business as a landlord. For example, you can tape the notice to the door. Bring a witness so you can prove the date that you posted the notice. Ask your witness to read the notice before you deliver it. Do not slide the notice under the door. The law says the notice is received on the third day after you post it.
- + **3 Mailbox or mail slot** Put the notice in the mailbox or through the mail slot. Bring a witness so you can prove the date that you delivered the notice. Ask the witness to read the notice before you deliver it. The law says the notice is received on the third day after it is left.
- + **4 Fax** You can serve your notice by fax if the landlord has provided you with a fax number for sending notices or documents. Keep the transmittal print-out that confirms the date that the fax was received. The law says the notice is received on the third day after you fax it.
- + **5 Mail** You can mail your notice by regular or registered mail. If you want proof that the landlord received your notice, send it by registered mail. The post office will give you a receipt to prove that you mailed your notice. The law says the notice is received on the fifth day after you mail it, so make sure you give yourself enough time.

BREAKING A LEASE

A lease, also called a fixed term tenancy, says how long you will live in the place. There are two kinds of leases:

Lease with a “move out” clause

If your lease (also called a fixed term tenancy agreement) says you have to move out when the lease ends, you might not get any other notice from your landlord. If you want to stay, you must sign a new agreement with the landlord.

Lease without a “move out” clause

A lease that says you have to stay for a minimum length of time (usually one year), but doesn't give a date when you must move out. This type of agreement lets you stay on after the lease ends and rent month-to-month. If you want to move on the date that your lease runs out, you must give a full month's notice in writing to your landlord. (See Chapter 2 for more information about leases.)

Breaking your lease

If you move out before the end of your lease (“break your lease”) without finding someone to take it over, your landlord can require you to pay the rent until another tenant moves in. You may be able to challenge this, if the landlord is not trying to find another tenant. Give as much notice as possible, in writing.

Charges for breaking a lease

If you move before your lease ends, you could be responsible for your landlord’s advertising and administrative costs to find another tenant. This charge is called liquidated damages. The amount should be a reasonable estimation of the cost of re-renting the place. You can dispute an unreasonable amount through a dispute resolution hearing at the Residential Tenancy Branch. Keep in mind that in addition to liquidated damages, you may be responsible for rent until the place is re-rented or your lease ends.

Finding someone to take over your lease

If you need to break a lease that runs for six months or more, you can find a new tenant to take your place. If you want to leave your home and not come back, you can “assign” it to another tenant. In this case, the assignee becomes responsible for the remainder of your lease. However, you may still be held responsible if the assignee does not carry out the terms of the agreement.

If you want to leave your home and come back to it later, you can “sublet” to another tenant. You will be responsible for the place while you are away. You can only assign or sublet with your landlord’s permission. The landlord can’t be unreasonable or unfair in refusing permission. Get permission in writing. If the landlord won’t give permission, you can go to dispute resolution (see Chapter 10, Dispute Resolution).

Moving because repairs are not done

You may be in a situation where you are frustrated that repairs are not being done and you want to move. You should still give your landlord proper notice or else you might be charged for the next month’s rent in addition to your landlord’s cost of re-renting the place. If you are breaking a lease, then you may be charged even more.

You have the right to apply for dispute resolution if there are repairs that need to be done (see Chapter 10, Dispute Resolution).

When problems are so serious you can't stay

Under serious circumstances you can move with short notice because the landlord has breached a material term in your tenancy agreement. You must first give your landlord written notice of the breach and an opportunity to do something about it. Then if the landlord does not do anything about the problem you can end your tenancy (see Section 45(3) and 52 of the RTA). Keep in mind that the *Residential Tenancy Act* does not define "material term" because a term could be material in one agreement and not another. If you end your agreement because you say the landlord breached a material term, you need to be prepared to convince an RTB dispute resolution officer that as a result of the breach the tenancy could no longer continue. Call the Tenant Information Line or the Residential Tenancy Branch for more information.

CLEANING AND MOVE-OUT INSPECTION

You must leave your place clean when you move out. You are responsible for the cost of repairing damage caused by you or your guests. The landlord is responsible for normal wear-and-tear. If something wears out over months or years of normal use, you may not have to pay for it. Usually, you don't have to paint walls even if there are small nail holes. You might have to clean your carpets or drapes, depending on how long you have lived there and whether you had pets or smoked in the place. You are responsible for any damage that has occurred since you did your move-in inspection report.

If you didn't do a move-in inspection

If you moved into your place, or began keeping a pet, after January 1, 2004, you and your landlord should have completed a condition inspection report. However, even if you moved in before this date you have to do an inspection report when you move out. While you won't have a move-in report to compare your move-out report to, at least you and the landlord will have documented the condition of

the place in case you need to go to dispute resolution. You do not have to agree with the landlord on the report, but you must still participate.

Getting your security deposit back

You have the right to get your full security and pet damage deposit back, unless there is damage, you didn't participate in the condition inspection reports, you owe rent or utility payments, or you left the place dirty. You must provide your landlord with a forwarding address where your deposit can be sent to. You cannot use your deposit to pay part of the last month's rent, unless the landlord agrees in writing. (See Chapter 4, Deposits and Other Fees.)

When the landlord owes you more than the deposit

If you want to claim money that you feel the landlord owes you in addition to your deposit, you can apply for dispute resolution at the Residential Tenancy Branch. For example, you can make a claim for compensation for the time that you lived with a serious repair problem, although you should have evidence of the problem and copies of letters asking the landlord to deal with it. (See Chapter 10, Dispute Resolution.)

Landlord's claim

The landlord can apply for dispute resolution to claim money from the deposit for things like cleaning, damage or unpaid rent and utilities. The landlord must give you notice of the dispute resolution hearing, so you can go and tell your side of the story. The landlord has two years from the date you moved out to make a monetary claim against you.