



Landlord and Tenant Fact Sheet

RTB-113

Protecting Against Illegal Activity on a Rental Property

Under the *Residential Tenancy Act* (RTA) and the *Manufactured Home Park Tenancy Act* (MHPTA), a landlord can serve a 1 Month Notice to End Tenancy where there is proof the tenant is involved in illegal activity on the property (s. 47 RTA and s. 40 MHPTA). If the situation is serious, the landlord can also apply for dispute resolution asking for an order to end the tenancy immediately (s. 56 RTA and s. 49 MHPTA).

The term “illegal activity” includes any serious violation of federal, provincial or municipal law, whether or not it is an offence under Canada’s Criminal Code. To be grounds for eviction, the illegal activity must have some effect on the tenancy.

Selecting new tenants

It is very important for landlords to protect themselves and their tenants by carefully assessing the suitability of a new tenant. The single, most important action a landlord can take is to conduct careful and thorough reference checks on potential tenants. A landlord can require prospective tenants fill in an application form and should take the time to verify the information is acceptable and accurate:

- ask for proof of identity, such as a valid driver’s licence or passport.
- thoroughly check all references.
- contact previous landlords. Ensure the person is a past landlord and ask about the tenant’s past rent-payment patterns and suitability as a tenant.
- check the applicant’s financial suitability through a credit check.
- confirm the applicant’s income is adequate to make rent payments.
- ask how many people will be living in the unit and what the names of those people are.
- ask about pets.

A landlord must not violate a person’s rights when checking for suitability as a tenant.

Include terms in the tenancy agreement barring criminal activities

The tenancy agreement can include terms designed to promote the safety of every person working or residing in the residential property or to protect the landlord’s property. However, a landlord cannot make rules such as “no guests after 10 p.m.” or “no overnight guests” or make other rules that would limit a person’s ability to enter the rental unit.

Checking existing tenants

Conduct regular inspections

s. 29 RTA and s. 23 MHPTA

A landlord can conduct a monthly inspection of a rental unit. The landlord must give the tenant written notice at least 24 hours and not more than 30 days before the time of entry. The time for entry must be between 8 a.m. and 9 p.m. unless the tenant agrees otherwise. (Note: The MHPTA does not provide for monthly inspections.)

A landlord may enter any common areas, or the property, at any time without giving the tenant notice. Some illegal activities may be apparent from outside the rental unit. For example, a marijuana grow-op might have condensation on the windows or the windows blacked out; a rapidly spinning hydrometer or tampered hydro wires; constant humming sounds or generator noises; and strong “skunky” odours.

Residential Tenancy Branch

Lower Mainland: 604-660-1020 Victoria: 250-387-1602 Elsewhere in BC: 1-800-665-8779
Website: www.rto.gov.bc.ca

#RTB-113(2009/09)

Issue warning letters for breaches of the tenancy agreement

The landlord can issue a warning letter informing the tenant of a breach of agreement, giving a reasonable period for the tenant to comply, and notifying the tenant that a failure to correct the breach will result in the tenancy ending. If the tenant breaches the agreement for the same reason again, the landlord can serve a One-Month Notice to End Tenancy.

Landlord giving notice to end the tenancy

(s. 47 RTA and s. 40 MHPTA)

The landlord can serve the tenant with a One-Month Notice to End Tenancy where the tenants or their guests have:

- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property.
- adversely affected or is likely to adversely affect the quiet, enjoyment, security, safety or physical well-being of another occupant of the residential property.
- engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant, or the landlord.
- significantly interfered with or unreasonably disturbed another occupant or the landlord.
- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.
- put the landlord's property at significant risk.
- caused extraordinary damage to a rental unit, residential property, manufactured home site, or manufactured home park.
- damaged the rental unit to an extent that exceeds reasonable wear and tear, and the tenant has failed to take necessary steps to repair the damage within a reasonable period.

A landlord can serve one-month's notice for more than one reason, if appropriate.

When determining whether a tenant's activities are serious enough to terminate the tenancy, the landlord needs to consider the extent of the interference with the quiet enjoyment of tenants, extent of damage to the property, and the jeopardy related to the activity and the risk placed on the landlord and other occupants.

For instance:

- illegal rewiring or unprofessional installation of excessive lighting can result in a significant fire hazard and be grounds for serving notice due to a serious impairment of the landlord's lawful right or interest.
- smoking a marijuana cigarette is illegal but unless the landlord can prove there is a significant impact on other occupants or the landlord's property, there may not be sufficient grounds to end the tenancy.
- growing one or two marijuana plants exclusively for personal use is illegal and might form the basis for ending the tenancy if it would jeopardize the landlord's ability to insure the property.
- not paying the rent contravenes the RTA but is not illegal. However, if a tenant gets in the way of a landlord collecting rent from other tenants, this could be illegal harassment and grounds for ending the tenancy.
- where a tenant commits a serious crime such as robbery or physical assault somewhere else than not on the rental property, there is likely not sufficient evidence to serve notice. However, if the tenant assaults the landlord, or robs from other tenants, this could be a reason enough to end the tenancy.

A tenant who believes that ending the tenancy is not justified can apply for dispute resolution asking for an order setting aside the notice. The tenant must submit this application within 10 days of receiving the Notice to End Tenancy. If the tenant does not dispute the notice, the tenant is presumed to accept that the tenancy will end on the date specified in the notice and must move out.

At the dispute resolution hearing, the landlord must provide solid and convincing evidence that justifies eviction of the tenant, including:

- showing how the circumstances fall within the reasons given for ending the tenancy; and
- evidence demonstrating the allegations are true. Allegations, unsupported by evidence, are not sufficient. The landlord must prove that it is more likely than not that what is alleged in the Notice to End Tenancy is true.

See Fact Sheet RTB-127 "Preparing for Dispute Resolution: gathering evidence".

Ending a tenancy without full notice

s. 56 RTA and s. 49 MHPTA

A landlord can apply for dispute resolution asking for an order to end a tenancy immediately if a tenant or the tenant's guests have:

- significantly interfered with or unreasonably disturbed another occupant of the property, or the landlord,
- seriously jeopardized the safety, rights or interests of the landlord or another occupant,
- engaged in illegal activity that has caused or could cause damage to the landlord's property, disturb or threaten the security, safety or physical well-being of another occupant of the property, or jeopardize a lawful right or interest of another occupant or the landlord, or
- caused major damage to the property or put the landlord's property at significant risk.

At the hearing, the landlord must provide convincing evidence that justifies not giving full notice and demonstrate it would be unreasonable or unfair to the landlord or other occupants of the property to wait for a notice to take effect.

For more information ...

Visit the RTB's Web site at www.rto.gov.bc.ca.

Call an Information Officer or listen to our 24 Hour Recorded Information Line:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

Visit the RTB nearest you:

Burnaby: 400-5021 Kingsway

Victoria: 1st Floor, 1019 Wharf Street

Kelowna: 305-478 Bernard Avenue

RTB Burnaby, Victoria and Kelowna are open 8:30 a.m. to 4:30 p.m., Monday to Friday.

All RTB offices are closed on statutory holidays.

If there is no RTB in your area, you can get residential tenancy guides, fact sheets and forms online at www.rto.gov.bc.ca or at any Service BC—Government Agents Office.