

ALBERTA LAW REFORM INSTITUTE

# **RESIDENTIAL TENANCIES ACT: ENDING A TENANCY**

ISSUES  
PAPER

8

MAY

2026



ALBERTA  
LAW REFORM  
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**RESIDENTIAL TENANCIES ACT:  
ENDING A TENANCY**

ISSUES PAPER || **8**

**MAY 2026**

ISSN 0838-0511

ISBN 978-1-896078-95-3

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# Invitation to Comment

This Issues Paper by the Alberta Law Reform Institute [ALRI] is the third of a series on the *Residential Tenancies Act*.

This Issues Paper discusses problems with the *Residential Tenancies Act* relating to the end of a tenancy. These problems were reported to us in early consultation with stakeholders from both landlord and tenant groups. Other problems were identified in our research.

An Issues Paper allows you the opportunity to consider these issues and to share your views with us. You may respond to one, a few or all of the issues raised. Any comments sent to us will be considered as we determine which issues warrant further review and how the law might be improved.

You can reach us with your comments or with questions about this document on our website, or by mail or e-mail to:

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**Law reform is a public process. We assume that comments on this Issues Paper are not confidential.** We may quote or refer to your comments. We usually discuss comments generally and without attribution. If you do not want your comments attributed to you, you may request confidentiality in your response or submit comments anonymously.



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# Alberta Law Reform Institute

The Alberta Law Reform Institute (ALRI) was established on November 15, 1967 by the Government of Alberta, the University of Alberta and the Law Society of Alberta for the purposes, among others, of conducting legal research and recommending reforms in the law. Funding for ALRI's operations is provided by the Government of Alberta, the University of Alberta and the Alberta Law Foundation.

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# Acknowledgments

This is the third of a series of reports outlining issues regarding the *Residential Tenancies Act*.

We would like to express our thanks to everyone who provided input in our early consultation. This includes everyone who attended one of our five consultation events (the data meetings in November 2023 and the landlord and property manager meetings in February 2024), everyone who participated in an interview, the organizations who invited us to present to various groups, and the people attending those meetings who shared comments and questions. Some participants also helped in other ways, like making introductions or providing examples of written residential tenancy agreements. We promised participants that we would not identify specific individuals or organizations who provided information. However, we are immensely grateful for the information that they shared. It has been essential to shaping this project.

We are also grateful to other researchers who gave advice and help along the way. We would particularly like to thank Kate Gower and the team at the Justice Data and Design Lab. The Justice Data and Design Lab shared a Reddit dataset with us, helping us test a new way of learning about legal problems.

A large project such as this can only be carried out by an effective team. Laura Buckingham has been the lead on this series of reports. She has tirelessly reviewed and documented the feedback we received from participants and compared it against the legislative and common law framework to assess the legal basis (or lack thereof) for the problems that we heard about. This has been no small task and we are amazed by and thankful for her ability to organise such a large volume of material in an accessible report.

Several other team members also contributed work towards this report. Susan Emam undertook additional research. Joe Sellman prepared the summary and checked the footnotes. Barry Chung and Kyla Krysko deserve the credit for preparing this report for publication and preparing communications tools.

In the context of the project as a whole, Matthew Mazurek took the lead to obtain and manage the Reddit data. Rachel Poznikoff and Sawyer Senekal reviewed the dataset from the Justice Data and Design Lab to identify the specific legal issues in the posts. Aydin McClelland, Rachel Poznikoff, Sawyer Senekal and Brennan Shepherd reviewed all reported Alberta court decisions from 2000 or later about the *Residential Tenancies Act*, all published decisions of the Residential Tenancy Dispute Resolution Service, and all reported Alberta Human Rights Tribunal decisions from 2000 or later about

residential tenancies. Lyndon Annetts and Georgia Saunders-McConomy contributed additional research.

# Summary

This report is the third in a series summarizing issues under Alberta's *Residential Tenancies Act*, SA 2004, c R-17.1. This report, and the others in the series, lay the groundwork for a larger project on residential tenancies. This series of reports does not make any recommendations to reform. Rather, the series is an inventory of issues.

The first report introduced the project and focused on general issues with the *Residential Tenancies Act*. The second report focused on issues arising at the beginning of or during a tenancy. This report focuses on issues arising at the end of a tenancy.

## 1. WHY REFORM THE *RESIDENTIAL TENANCIES ACT*?

The *Residential Tenancies Act* governs the rental housing sector in Alberta. It outlines the rights and responsibilities of landlords and tenants, sets rules for renting homes, and provides ways to resolve disputes.

The *Residential Tenancies Act* affects a wide range of people. Over a quarter of households in the province live in rental housing. Tenants can be from any demographic or background. It also affects landlords, from larger corporate landlords to individuals who rent a basement suite in their home.

The stakes in residential tenancy disputes go beyond money. They can impact a person's health, housing security, and overall quality of life.

The *Residential Tenancies Act* has not undergone a comprehensive review in over 20 years. It is increasingly out of step with social, economic, and technological realities. Many Albertans struggle to understand or comply with the law. These challenges underscore the need for reform to ensure the law remain relevant, accessible, and effective for all.

## 2. HOW DID ALRI FIND ISSUES WITH THE *RESIDENTIAL TENANCIES ACT*?

The findings in this report are based on: a review of legislation and case law; a literature review; an extensive early consultation process; and reports of individual experiences gathered from news stories and online sources.

### 3. ISSUES THAT ARISE AT THE END OF TENANCIES

#### a. A lack of alternative remedies might result in tenancies ending

Alberta has a higher than average turnover rate in the rental market than most of Canada. While the data doesn't tell us why, we heard that remedies available to landlords and tenants are often either ineffective or too severe.

When issues arise during a tenancy, landlords and tenants are generally limited in how they can resolve these issues. In most cases, the only options available are monetary (compensation, damages, rent abatement, etc.) or to end the tenancy.

For example, there are no remedies available to require a landlord to make specific repairs and there are no remedies available to enforce good neighbourly conduct of a tenant. In these types of situations, it is possible that ending a tenancy is the only practical option.

#### b. Knowing how to end a tenancy can be complex and difficult

There are more than a dozen reasons a landlord or tenant may end a tenancy under the *Residential Tenancies Act*. However, not all reasons apply to all types of tenancies, and some are only available to the landlord and others only available to the tenant.

The *Residential Tenancies Act* establishes specific conditions and processes that must be followed. There are different conditions and processes for different reasons. They are not always organized clearly in the legislation. Some conditions and requirements are not found in the Act. Instead, they are found in case law.

Many landlords and tenants navigate residential tenancy issues themselves. In practice, ending a tenancy can become very complicated, as illustrated in the examples below.

#### c. Different types of tenancies can be ended for different reasons

One of the main complications is that ending a fixed term tenancy is significantly different from ending a weekly, monthly, or yearly periodic tenancy. Unfortunately, the difference between the types of tenancies is neither intuitive nor clear, even when there is a written residential tenancy agreement. This can be further complicated as the way tenancies are renewed can change a fixed term tenancy into a periodic tenancy and vice versa.

Some reasons to end a tenancy can be used for any type of tenancy. For example, all tenancies can be ended for certain breaches of obligations,

certain situations involving significant damage or violence, or by agreement between the landlord and tenant.

Fixed term tenancies have a specific end date for the tenancy. When that date is reached the tenancy is over. Absent certain breaches of obligations (by either the landlord or the tenant), and some narrow exceptions related to acts of violence, the end date is fixed, regardless of circumstances and without any notice being needed.

Contrast this with periodic tenancies that can in theory continue indefinitely, until either the landlord or tenant ends them. Tenants can end a periodic tenancy for any reason but they must give adequate notice. In contrast, a landlord can only end a periodic tenancy for certain breaches of obligation or for one of the specific situations described in the legislation and only if the necessary conditions are met.

This can cause complexity and potentially unexpected outcomes when attempting to end a tenancy and at the end of a tenancy.

#### **d. Ending a tenancy for a breach of an obligation**

Ending a tenancy for a breach of an obligation is not as simple as one might expect and the process depends upon who is seeking to end the tenancy.

In most cases, if a tenant is seeking to end the tenancy for a breach, they must apply to a court or the Residential Tenancies Dispute Resolution Service (RTDRS). The exception is that tenant can give notice (without going to court or the RTDRS) when the minimum housing and health standards are not met. There is a specific process and set of requirements for this exception to apply.

While a landlord can also apply to a court or the RTDRS to end a tenancy for a breach, the circumstances where a landlord may end a tenancy without going to court or to the RTDRS are much broader. They include failure to pay rent, interfering with the rights of others, and so on. The case law indicates that not all breaches are grounds for ending a tenancy. For example, late rent is not always a sufficient enough breach to end a tenancy.

In our consultation, we heard that many tenants who receive a notice from their landlord leave the home. It may result in tenants losing their homes unnecessarily because the landlord does not have to prove that the allegations in the notice are true or that the stated reason justifies ending the tenancy.

#### **e. Other complexities**

This report discusses other ways tenancies can end, including repudiation and abandonment, constructive termination and unlawful evictions, frustration, and death of a tenant.

#### 4. WHAT COMES NEXT?

The law cannot prevent all the issues that people face. However, it should help people resolve their conflicts and legal disputes. Well-designed laws about residential tenancies should help people resolve their problems more quickly and easily.

Disentangling the issues in preparation for this series of reports has been a significant task. Making recommendations for reform will likely be an even greater task.

In the next steps for this project, while ALRI is unlikely to be able to provide recommendations for all of the issues identified, ALRI will focus on further research, consultations, and recommendations to address a selection of issues.

ALRI also hopes that the inventory of issues will help others looking to reform the *Residential Tenancies Act*, and who have the expertise to consider the issues that ALRI cannot.

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## LEGISLATION

<i>Residential Tenancies Act</i>	<i>Residential Tenancies Act</i> , SA 2004, c R-17.1
<i>Residential Tenancies Ministerial Regulation</i>	<i>Residential Tenancies Ministerial Regulation</i> , Alta Reg 211/2004

## LAW REFORM PUBLICATIONS

<i>Residential Tenancies Act: General Issues</i>	Alberta Law Reform Institute, <i>Residential Tenancies Act: General Issues</i> , Issues Paper 6 (2025), online < <a href="http://alri.ualberta.ca/2025/03/the-residential-tenancies-act-general-issues/">alri.ualberta.ca/2025/03/the-residential-tenancies-act-general-issues/</a> >.
<i>Residential Tenancies Act: Before and During a Tenancy</i>	Alberta Law Reform Institute, <i>Residential Tenancies Act: Before and During a Tenancy</i> , Issues Paper 7 (2026), online: < <a href="http://alri.ualberta.ca/2026/02/residential-tenancies-act-issues-paper-7/">alri.ualberta.ca/2026/02/residential-tenancies-act-issues-paper-7/</a> >.
<i>Residential Tenancies 1977</i>	Institute of Law Research and Reform (Alberta), <i>Residential Tenancies</i> , Final Report 22 (1977), online: < <a href="http://alri.ualberta.ca/1977/02/residential-tenancies/">alri.ualberta.ca/1977/02/residential-tenancies/</a> >.
<i>Achieving a Balance</i>	Ministerial Advisory Committee on Residential Tenancies (Alberta), <i>Achieving a Balance</i> (Edmonton: Consumer and Corporate Affairs, 1990)



# Notes About Language

Some words and phrases in this report have a particular meaning. We have sometimes chosen different words and phrases than other researchers or writers. This page explains what we mean by certain words or phrases and why we chose them.

## LANDLORD

We use landlord to mean a property owner or a manager or agent who acts on behalf of the owner. It has this meaning in the *Residential Tenancies Act*.<sup>1</sup> Many people also use the word this way in everyday life.

We recognize there are some possible problems with the word landlord. For one thing, it is a gendered word that implies property owners, managers, or agents are usually masculine. People of any gender can have these roles, so a gender neutral term would be more accurate. For another thing, it is an old word that might be considered archaic. It would be better to have a different word to reflect the modern relationship.

Despite these problems with the word landlord, we use it in this report to be consistent with the *Residential Tenancies Act* and because it is a common word that most people understand. Any alternatives we considered would be unclear.

## TENANT OR RENTER

We usually use tenant to mean a person who rents a home from a landlord. We sometimes use renter instead of tenant if it is unclear whether the person would be a tenant or if the *Residential Tenancies Act* applies.

<sup>1</sup> *Residential Tenancies Act*, SA 2004, c R-17.1, s 1(1)(f) [*Residential Tenancies Act*]:

1(1)(f) "landlord" means

(i) the owner of the residential premises,

(ii) a property manager who acts as agent for the owner of the residential premises and any other person who, as agent for the owner, permits the occupation of the residential premises under a residential tenancy agreement,

(iii) the heirs, assigns, personal representatives and successors in title of the owner of the residential premises, and

(iv) a person who is entitled to possession of the residential premises, other than a tenant, and who attempts to enforce any of the rights of a landlord under a residential tenancy agreement or this Act;

## EVICTION

Many researchers and writers use eviction to mean a process where a landlord ends a tenancy against the will of a tenant.<sup>2</sup> Some further divide evictions into formal and informal evictions.<sup>3</sup> A formal eviction uses legal procedures, like an application to a court or tribunal to end a tenancy. An informal eviction is one where a landlord convinces or compels a tenant to leave without the involvement of a court or tribunal.<sup>4</sup>

Eviction has a technical meaning in Alberta law. The *Civil Enforcement Act* defines it as “anything done to enforce the right to take physical possession of premises or land.”<sup>5</sup> Eviction in this sense means physically removing tenants or occupants and their belongings from premises. It is only lawful if a court or tribunal has made an order for recovery of possession. Only a civil enforcement agency can carry out an eviction.

To avoid confusion, in this report we use eviction only in the second, technical sense.

## TERMINATING A TENANCY

We use terminating a tenancy to refer to any situation where a landlord or tenant follows procedures in the *Residential Tenancies Act* to end a tenancy against the will of the other. It does not always require the involvement of a court or tribunal. In some circumstances, the *Residential Tenancies Act* allows a landlord or tenant to give the other a notice to terminate the tenancy.

## LOSING A HOME

We use losing a home to refer to a situation where a tenant must leave a rented home against their will. It includes situations where the landlord terminates a

<sup>2</sup> See eg Sarah Zell & Scott McCullough, *Evictions and Eviction Prevention in Canada* (Winnipeg: Institute of Urban Studies, University of Winnipeg, 2020), online: <eppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/archive/research\_6/evictions-and-eviction-prevention-in-canada.pdf> [perma.cc/5LFN-JR3FX] (“In this research, ‘eviction’ is understood as the process through which tenants are required to leave their home, under the demands of the owner of the unit of housing ...” at iii).

<sup>3</sup> See eg Zell & McCullough note 2 at iii-iv; Sarah Buhler, “Pandemic Evictions: An Analysis of the 2020 Eviction Decisions of Saskatchewan’s Office of Residential Tenancies” (2021) 35 J L & Soc Pol’y 68 at 73-74.

<sup>4</sup> Some examples of informal eviction are:

- a landlord raises the rent to an amount the tenant cannot afford;
- a landlord does not address maintenance or pest issues in a timely way so the home no longer comfortable or safe;
- a landlord harasses or assaults the tenant;
- a landlord offers the tenant money to leave (“cash for keys”).

<sup>5</sup> *Civil Enforcement Act*, RSA 2000, c C-15, s 1(1)(s).

tenancy in accordance with the *Residential Tenancies Act*, such as for non-payment of rent. It also includes situations where there are no legal procedures but nonetheless the tenant's only option is to leave.

## HOMELESS OR HOMELESSNESS

We use homeless to describe a person who does not have a stable place to live. We chose to use homeless instead of terms like unsheltered or unhoused because homeless best describes the particular problem we discuss in this report. If a person loses their home, they may find shelter elsewhere. For example, they might stay in an emergency shelter or with a friend or family member. Even so, they would not have a place they could call home.

## DOMESTIC VIOLENCE

We use domestic violence to describe violence or abuse between people who live together or have a close relationship, including family members or people in a dating relationship. Violence or abuse could include physical violence, sexual violence, threats, psychological or emotional abuse, and stalking or harassment. Our use of domestic violence reflects the definition in the *Residential Tenancies Act*.<sup>6</sup>

Other researchers, writers, and organizations use different terms, like family violence, intimate partner violence, or gender-based violence. We chose to use domestic violence because it is in the *Residential Tenancies Act* and because it is a

<sup>6</sup> *Residential Tenancies Act*, s 47.2:

- 47.2(1) For the purposes of this Part, domestic violence occurs when a person, that person's dependent child or a protected adult who lives with that person is subjected to any of the acts or omissions listed in subsection (2) by another person who
- (a) is or has been married to that person, is or has been an adult interdependent partner of that person or is residing or has resided together with that person in an intimate relationship,
  - (b) is or has been in a dating relationship with that person, regardless of whether they have lived together at any time,
  - (c) is the biological or adoptive parent of one or more children with that person, regardless of their marital status or whether they have lived together at any time,
  - (d) is related to that person by blood, marriage or adoption or by virtue of an adult interdependent relationship, regardless of whether they have lived together at any time, or
  - (e) resides with that person and has care and custody over that person pursuant to an order of a court.
- (2) The following acts and omissions constitute domestic violence for the purposes of this Part:
- (a) any intentional or reckless act or omission that causes injury or property damage and that intimidates or harms a person;
  - (b) any act or threatened act that intimidates a person by creating a reasonable fear of property damage or injury to a person;
  - (c) conduct that reasonably, in all circumstances, constitutes psychological or emotional abuse;
  - (d) forced confinement;
  - (e) sexual contact of any kind that is coerced by force or threat of force;
  - (f) stalking.

broad term that could apply to a wide range of actions or relationships. While we are aware that most violence between people in a close relationship is committed by men against women, we do not want to exclude people with other experiences.

We use victim or survivor interchangeably to refer to a person experiencing or who has experienced violence. We recognize that there are a range of experiences and preferences among people who have experienced domestic violence and no one term can reflect all of them. Some people may identify as a victim, some as a survivor, and some as neither or something else.

## CHAPTER 1

# Introduction

## A. Introduction

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[1] The Alberta Law Reform Institute [ALRI] is working on a project to review the *Residential Tenancies Act* and other rules for landlords and tenants. The *Residential Tenancies Act* is about the relationship between landlords and tenants.<sup>7</sup> As the name says, it applies to residential tenancies – those where a person rents a place to live.

[2] This report is the third in a series summarizing issues with the *Residential Tenancies Act*. This report is about how tenancies end and issues that arise when a tenancy ends.

[3] The first report in this series covered general or conceptual issues with the *Residential Tenancies Act*, as well as providing a general introduction to this project. Readers interested in the background to this project or our methods will find more information in that report.<sup>8</sup> The second report in the series discussed issues that arise at the beginning of or during a tenancy.<sup>9</sup>

## B. Why Review the *Residential Tenancies Act*?

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[4] The *Residential Tenancies Act* and related laws affect many people.

[5] More than one quarter of Alberta households rent their homes. The 2021 census found 465,220 households in Alberta rent their home.<sup>10</sup> Many, if not most, individuals will be a tenant at some point in their lives. Some people live in a rented home for a time but eventually become homeowners. Others live in rented homes for their entire lives. Tenants can be from any demographic or

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<sup>7</sup> *Residential Tenancies Act*, SA 2004, c R-17.1 [*Residential Tenancies Act*].

<sup>8</sup> Alberta Law Reform Institute, *Residential Tenancies Act: General Issues*, Issues Paper 6 (2025), online: <[alri.ualberta.ca/2025/03/the-residential-tenancies-act-general-issues/](http://alri.ualberta.ca/2025/03/the-residential-tenancies-act-general-issues/)> [*Residential Tenancies Act: General Issues*].

<sup>9</sup> Alberta Law Reform Institute, *Residential Tenancies Act: Before and During a Tenancy*, Issues Paper 7 (2026), online: <[alri.ualberta.ca/2026/02/residential-tenancies-act-issues-paper-7/](http://alri.ualberta.ca/2026/02/residential-tenancies-act-issues-paper-7/)> [*Residential Tenancies Act: Before and During a Tenancy*].

<sup>10</sup> Statistics Canada, “Dwelling condition by tenure, Canada, provinces and territories”, online: <[www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=9810023301](http://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=9810023301)> [perma.cc/89G5-34GE].

background but many are marginalized or vulnerable. Newcomers to Canada, low-income people, and young people are usually tenants, not homeowners.

[6] There are also many people who are landlords or who earn money from rental property. Some own and manage property themselves, some work for companies that are landlords, some are property managers, and some invest in corporations or trusts that own or manage rental properties. There are different kinds of landlords, including large corporations or trusts, non-profit organizations, and individuals. There are landlords who own thousands of rental homes and others who have just one, like a secondary suite in their home.

[7] Residential tenancy legislation affects people other than landlords and tenants. It affects those who work in the rental housing sector, like property management companies or civil enforcement agencies. It affects governments, especially the provincial government. The provincial government funds the services that enforce the law or resolve disputes between landlords and tenants. It also pays for services and supports for people who have unstable housing or who have lost their homes. Residential tenancy problems have ripple effects on others in the community, like charities, non-profit organizations, and family and friends who provide support, advice, and practical help to landlords or tenants.

[8] Research shows that problems about housing, including rental housing, are very common.<sup>11</sup> Every year, a large number of people in Alberta use the formal legal system to deal with issues about tenancies. The Residential Tenancy Dispute Resolution Service [RTDRS] is just one of the services that people may use, although it is almost certainly the busiest. There have been more than 10,000 RTDRS applications every year since 2017. It is likely that more people experience problems but do not use the formal legal system.

[9] A problem with a rented home or conflict between a landlord and a tenant affects everyone who lives in the home and those who own or manage it. The

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<sup>11</sup> See eg Trevor CW Farrow et al, *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (Toronto: Canadian Forum on Civil Justice, 2016) at 8, online: <cfjc.org/sites/default/files/Everyday%20Legal%20Problems%20and%20the%20Cost%20of%20Justice%20in%20Canada%20-%20Overview%20Report.pdf> [perma.cc/LW4C-Q5B5]; Statistics Canada, "Serious Problems or Disputes in the Past 3 Years, by Type of Problem and Gender, Provinces, 2021" (2022) online: <www150.statcan.gc.ca/n1/pub/85-002-x/2022001/article/00001/tbl/tbl01-eng.htm> [perma.cc/7YUG-NXAQ]; Joanne J Paetsch & Lorne D Bertrand, *Summary Legal Advice Services in Alberta: Year 1 Results from the Community Legal Clinic Surveys* (Canadian Research Institute for Law and the Family, 2017) at 8-9, online: CanLII Docs <canlii.ca/t/291r> [perma.cc/CJ2L-JR8R].

consequences go beyond money or property. Quality of life and wellbeing are also at stake.<sup>12</sup>

[10] While the law cannot prevent all problems with residential tenancies, it should provide an effective and fair way to resolve them.

[11] There are signs that the *Residential Tenancies Act* has not kept up with the times. Many features of the *Residential Tenancies Act* date back more than 50 years. Parts of the legislation do not reflect social changes or modern technology.<sup>13</sup>

[12] There are also signs that the *Residential Tenancies Act*, related legislation, and systems to enforce them are not working well. Landlords, tenants, and other people who rely on the legislation say it is confusing and difficult to understand. When people do not know their rights and responsibilities, they may unknowingly violate the law. When problems arise, they do not know how to enforce their rights. Non-compliance with the law seems to be widespread.

[13] The *Residential Tenancies Act* is overdue for a review. The last major review was more than 20 years ago.<sup>14</sup>

### **C. About this Project and this Report**

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[14] This series of reports will lay the groundwork for the rest of ALRI's project. This report, and the others in this series, do not have any recommendations for reform. They are intended to be an inventory of all the issues that should be considering in updating or replacing the *Residential Tenancies Act*.

[15] In later phases of the project, when ALRI makes recommendations for reform, we may not address all the issues in this report. Some of the issues are outside the scope of ALRI's project or outside our expertise as a law reform agency.

<sup>12</sup> The first report in this series has more details about residential tenancy problems and how they affect landlords, tenants, and others: *Residential Tenancies Act: General Issues* at paras 78-128.

<sup>13</sup> There have been some small amendments to bring parts of the legislation up-to-date. A 2022 amendment allowed landlords to use modern payment options to return security deposits to tenants. A 2025 amendment allowed landlords or tenants to deliver notices using electronic communication: see *Residential Tenancies Act: Before and During a Tenancy* at paras 147, 420.

<sup>14</sup> The first report in this series includes a brief history of the *Residential Tenancies Act*, including how it has been reviewed and reformed over the years: *Residential Tenancies Act: General Issues* at paras 50-62.

[16] As a law reform agency, ALRI's expertise is in legal issues. We usually focus on issues that could be resolved by legislation. ALRI does not usually make recommendations about operational issues, resource allocation or budgets, or economic policy. In addition, while we have legal expertise we are not experts in legislative drafting. ALRI generally avoids making recommendations about the specific wording of legislation.

[17] Some of the issues in this report should be left to elected officials, legislative drafters, or others. We hope this report will assist them by identifying questions to consider.

## 1. SCOPE OF THE PROJECT

[18] ALRI's project is specifically about residential tenancies.

[19] This project is not about commercial tenancies, where the tenant rents a place of business. The *Residential Tenancies Act* does not apply to commercial tenancies and the issues are likely to be very different.

[20] This report does not discuss tenancies of mobile home sites, which are regulated by the *Mobile Home Sites Tenancies Act*.<sup>15</sup> There is a lot of overlap between the *Residential Tenancies Act* and the *Mobile Home Sites Tenancies Act*. Many of the issues we describe in this report might also apply to tenancies of mobile home sites, but as we did not seek input specifically about the *Mobile Home Sites Tenancies Act* it would be premature to comment.

[21] This report does not discuss issues specific to residential tenancies on reserve lands. There may be a gap in the law that affects homes on reserves. Courts have held that provincial legislation, like the *Residential Tenancies Act*, cannot affect possession of land on reserves as the federal Parliament has exclusive jurisdiction under the Constitution.<sup>16</sup> Parts of the *Residential Tenancies Act* that do not affect possession of land might apply.<sup>17</sup> It might be helpful if First Nations could fill the gap with their own legislation but it would be outside ALRI's roles to make recommendations about federal law or laws that First Nations might enact.

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<sup>15</sup> *Mobile Home Sites Tenancies Act*, RSA 2000, c M-20.

<sup>16</sup> See *Little Leaf v Houle*, 2011 ABPC 31 at paras 8-28; *Sechelt Indian Band v British Columbia (Manufactured Home Park Tenancy Act, Dispute Resolution Officer)*, 2013 BCCA 262, leave to appeal to SCC refused, 35503 (23 October 2014); *McCaleb v Rose*, 2017 BCCA 318; *Glooscap First Nation v McLellan*, 2022 NSSC 274.

<sup>17</sup> See *Little Leaf v Houle*, 2011 ABPC 31 at paras 29-35.

[22] We heard about many other issues that are outside ALRI's expertise or not suitable for a law reform project. While they are important, they are better addressed by others. Issues outside the scope of ALRI's project include the ones summarized below.<sup>18</sup>

**a. Right to housing**

[23] This project does not consider whether there is or should be a right to housing. ALRI will not make recommendations about whether Alberta legislation should explicitly recognize a right to housing.

**b. Affordability, rent, and rent control**

[24] ALRI has determined that issues about affordability and rent are not suitable for a law reform project. In particular, ALRI will not make recommendations about rent control. We will leave it to others to make recommendations or advocate for their views.

**c. Supply of housing**

[25] Issues about the supply of housing or vacancy rates are outside the scope of this project. The *Residential Tenancies Act* is not about the supply of housing. Other legislation or government policies are involved.

[26] It is worth mentioning some specific topics that could affect the supply of housing. This project does not address:

- Funding for social or affordable housing;
- Land use and zoning;
- Short-term rentals; or
- Insurance.

**d. Financialization and consolidation of rental housing**

[27] Financialization and consolidation are related processes. In recent years, large corporations, investment trusts, and institutional investors have bought more and more rental homes. The purpose of these entities is to make money for investors. Financialization refers to treating housing primarily as a way to make

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<sup>18</sup> The first report in this series explains why these issues are outside the scope of ALRI's project: *Residential Tenancies Act: General Issues*, Chapter 3.

money. Consolidation refers to a process where a few large landlords come to dominate the rental housing market, so there are fewer landlords overall. Some participants in our consultation raised concerns about these processes. Other organizations and researchers are studying financialization of housing and its effects.<sup>19</sup> These issues are outside the scope of ALRI's project.

**e. Other issues affecting landlords and tenants**

[28] We heard about other issues that affect landlords and tenants but which are not directly related to the *Residential Tenancies Act*. They include things like government benefits that some people rely on to pay rent or security deposits in rental buildings. ALRI will not address those issues in this project.

**2. METHODS AND EARLY CONSULTATION**

[29] The findings in this report are based on four things:

- A review of legislation and case law;
- A literature review;
- An extensive early consultation process; and
- Reports of individual experiences gathered from news stories and online sources.

[30] The first report in this series has more details about our methods.<sup>20</sup> Without repeating all the details, it is worthwhile to briefly describe some of the sources we relied on.

**a. Legislation and case law**

[31] ALRI counsel carefully reviewed the *Residential Tenancies Act*, its regulations, and other legislation.

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<sup>19</sup> The Office of the Federal Housing Advocate published a series of research papers on financialization of housing: Canadian Human Rights Commission, "Research on Financialization", online: <[chrc-ccdp.gc.ca/individuals/right-housing/financialization-housing/research-financialization](https://chrc-ccdp.gc.ca/individuals/right-housing/financialization-housing/research-financialization)> [perma.cc/8U2F-3VDC]. The Affordable Housing Solutions Lab published a series of blog posts about financialization of housing in 2023. The first one in the series is Affordable Housing Solutions Lab, "The Financialization of Housing: What Is It?" (24 April 2023), online: The Pivot <[affordablehousinglab.com/2023/04/24/the-financialization-of-housing-what-is-it/](https://affordablehousinglab.com/2023/04/24/the-financialization-of-housing-what-is-it/)> [perma.cc/PPA6-NJHL].

<sup>20</sup> *Residential Tenancies Act: General Issues*, Chapter 1.

[32] We reviewed case law considering or applying the *Residential Tenancies Act* or the *Mobile Home Sites Tenancies Act*. The case law included reported Alberta court decisions from 2000 or later, all published RTDRS decisions, and any reported Alberta Human Rights Tribunal decisions from 2000 or later considering discrimination in tenancy.

#### b. Literature review

[33] ALRI counsel reviewed secondary sources like books, articles, research reports, government reports, news articles, and blog posts, focusing on sources from Canada.

[34] Our research also included news stories, with particular attention to news from Alberta.

[35] We also researched past reviews of the *Residential Tenancies Act*. The Alberta legislature adopted the first version of the legislation in 1964. There have been three major reviews of the legislation since then.

[36] ALRI (then called the Institute of Law Research and Reform) did the first review in the 1970s. In 1977 we published *Residential Tenancies, Final Report 22*.<sup>21</sup> In 1979, the legislature adopted *The Landlord and Tenant Act, 1979*, implementing recommendations from the report.<sup>22</sup>

[37] The second review began in 1989. The Minister of Consumer and Corporate Affairs appointed a committee to review the legislation. The Ministerial Advisory Committee on Residential Tenancies delivered its report in 1990.<sup>23</sup> The following year, the legislature passed the *Landlord and Tenant Amendment Act, 1991*, implementing many recommendations from the committee's report.<sup>24</sup>

[38] The third review was in the early 2000s. Alberta Government Services circulated discussion papers to gather opinions on the legislation. To our knowledge, the results of that consultation were never published nor made available to the public. As part of our research for this project, however, ALRI

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<sup>21</sup> Institute of Law Research and Reform (Alberta), *Residential Tenancies, Final Report 22* (1977), online: <[alri.ualberta.ca/1977/02/residential-tenancies](http://alri.ualberta.ca/1977/02/residential-tenancies)> [*Residential Tenancies 1977*].

<sup>22</sup> *The Landlord and Tenant Act, 1979*, SA 1979, c 17 [*The Landlord and Tenant Act, 1979*].

<sup>23</sup> Ministerial Advisory Committee on Residential Tenancies (Alberta), *Achieving a Balance* (Edmonton: Consumer and Corporate Affairs, 1990) [*Achieving a Balance*].

<sup>24</sup> *Landlord and Tenant Amendment Act, 1991*, SA 1991, c 18.

was able to review archival material including summaries of responses to the discussion papers.<sup>25</sup>

[39] The legislature adopted a new version of the *Residential Tenancies Act* in 2004 and amended it twice in 2005.<sup>26</sup> There have been smaller changes since then, including amendments to allow a tenant experiencing domestic violence to terminate a tenancy early, to respond to the COVID-19 pandemic, to update rules about return of security deposits, and to update rules about notices.

#### c. Early consultation

[40] Our early consultation process included interviews, meetings and presentations, and consultation events. Altogether, we had input from 140 individuals. Many were employees or members of organizations, with over 40 organizations represented. Participants included:

- Tenants and organizations that work with tenants;
- Landlords and organizations that work with landlords;
- Service providers;
- People who apply or enforce the legislation; and
- Researchers.

[41] We asked participants for permission to use any information shared without identifying who provided the information. Accordingly, this report does not identify specific individuals or organizations who participated in early consultation.

#### d. Reports of individual experiences

[42] We explored a new way to learn about individual experiences, building on the work of the Justice Data and Design Lab.<sup>27</sup> It used a machine learning process to collect and analyze posts from the social media site Reddit, specifically

<sup>25</sup> Alberta Government Services, *Landlord and Tenant Legislation Discussion Paper Returns and Analysis* (2002) [unpublished, on file with ALRI]. When the document was prepared, in November 2002, Alberta Government Services had received a total of 1,311 responses to the discussion paper. There were 501 responses from landlords, 465 from tenants, and 148 from organizations. The rest were from others.

<sup>26</sup> Bill 16, *Residential Tenancies Act*, 4th Sess, 25th Leg, Alberta, 2004; Bill 10, *Residential Tenancies Amendment Act, 2005*, 1st Sess, 26th Leg, Alberta, 2005; Bill 44, *Residential Tenancies Amendment Act, 2005 (No 2)*, 1st Sess, 26th Leg, Alberta, 2005.

<sup>27</sup> The Justice Data and Design Lab is part of the BC Access to Justice Centre for Excellence, a research institute at the University of Victoria Faculty of Law.

from a subreddit called “r/legaladvicecanada.” The Justice Data and Design Lab shared a dataset with ALRI. Their analysis indicated the posts in the dataset were related to housing problems in Alberta. ALRI students reviewed each post and categorized them by legal issue. This review showed that most of the posts were about residential tenancy issues. Approximately 425 posts were about residential tenancies, recounting individual experiences or problems. In this report, we call this dataset the Reddit data.

## **D. Structure of this Report**

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[43] This report is about ending a tenancy and related issues.

[44] The first chapter introduces the project and this report, briefly describing the project and our methods.

[45] The next three chapters provide context for the rest of the report. Chapter 2 explores why problems between landlords and tenants often lead to tenancies ending. It considers the remedies in legislation and asks if there are alternatives to ending a tenancy. It also considers the impact of ending a tenancy, including the impact on all people who share a home. Chapter 3 is about the types of tenancies. The rules for ending a tenancy often depend on its type so it is important to describe the types before considering specific rules. Chapter 4 provides a brief overview of all the ways a tenancy may end.

[46] The remaining chapters discuss different ways of ending a tenancy and issues about them.

[47] Chapters 5 and 6 are about ending a tenancy without a breach. Chapter 5 is about ending a periodic tenancy. Chapter 6 is about ending a fixed term tenancy.

[48] Chapters 7 and 8 are about terminating a tenancy for breach. Chapter 7 is about determining whether a landlord or tenant committed a breach and whether the breach is one that justifies terminating the tenancy. Chapter 8 is about the processes available to a landlord or tenant who wishes to terminate a tenancy for breach. It compares the processes and considers issues about them.

[49] Chapters 9, 10, and 11 are about other ways tenancies end. Chapter 9 is about terminating a tenancy for domestic violence. Chapter 10 is about ending employee tenancies, where an employer rents a home to an employee because of their employment. Chapter 11 briefly discusses several other ways tenancies may

end: agreement, assignment or sublease, sale, abandonment or repudiation, frustration, death of a tenant, and some other special rules.

[50] Finally, Chapter 12 is about issues that arise after a tenancy ends. In particular, it discusses issues about abandoned property.

## CHAPTER 2

## Ending a Tenancy and Other Remedies

**A. Why Is Ending a Tenancy Important?**

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[51] A large part of the *Residential Tenancies Act* is about ending a tenancy. Of its 93 sections, approximately one third deal with ending a tenancy or issues that arise at the end of a tenancy.

[52] There seems to be a common assumption that any serious difference between a landlord and a tenant inevitably leads to the end of the tenancy. We heard this idea from some participants in our consultation. We heard that almost any disagreement can lead to the end of a tenancy. A dispute can lead to a breakdown in the relationship between a landlord and tenant. If that happens, it is very likely that one of them will end the tenancy at the earliest opportunity. The reason or process may vary but the tenancy will end one way or another.<sup>28</sup>

**1. HOW DOES ENDING A TENANCY AFFECT LANDLORDS AND TENANTS?**

[53] Ending a tenancy may solve some problems but it creates others.

[54] For a tenant, ending a tenancy means they must find a new home and move. It always takes some time and effort to find a new home. Moving takes time and work, often costs money, and can be a hassle. Losing a home can come with many other problems, which we described in another report in this series.<sup>29</sup>

[55] For a landlord, ending a tenancy means extra work and sometimes losing money. They have to advertise and meet with potential tenants. There are tasks to complete, like inspections and dealing with a security deposit. There may be work to prepare the home for a new tenant, like cleaning, painting, performing repairs, or changing the locks. If they cannot fill the vacancy immediately, they will lose income.

[56] The impact can vary depending on vacancy rates. Low vacancy rates can mean more challenges for tenants, making it harder to find another home to rent. High vacancy rates can mean more challenges for landlords. They may lose

<sup>28</sup> Chapter 4 provides an overview of ways to end a tenancy. A landlord or tenant who wants to end a tenancy may have different options depending on the type of tenancy, whether they are the landlord or the tenant, and the reason.

<sup>29</sup> *Residential Tenancies Act: General Issues* at paras 108-114.

money because they cannot fill vacancies or because they have to lower rents or offer incentives to attract tenants.<sup>30</sup>

## 2. IS THERE A PROBLEM WITH TENANCIES ENDING?

[57] Some participants in our consultation would like to see more stable tenancies.

[58] There is some data suggesting tenancies end more often in Alberta than elsewhere in Canada. The Canada Mortgage and Housing Corporation conducts an annual survey to collect data about rental markets across Canada. It shows turnover is higher in Alberta than the national average and this pattern has existed for years.<sup>31</sup>

[59] It is hard to say if a high turnover rate indicates a problem. As we discussed elsewhere, there is a lack of reliable data about residential tenancies and many gaps in the available data.<sup>32</sup> There is very little information about why tenancies end. We do not know how many tenancies end by termination for breach, how many end because of other problems, or how many end because the tenant wanted to move, either for a life event or just because they prefer a different home. We do not know how or if the law contributes to high turnover.

[60] Nonetheless, it may be worth asking if the law could or should help improve the stability of tenancies.

## **B. Consequences and Remedies in the *Residential Tenancies Act***

[61] The emphasis on ending a tenancy may reflect a deeper issue with the *Residential Tenancies Act*. Some participants in our consultation raised concerns about remedies, suggesting there is a mismatch between common problems and the remedies available to address them. We heard that the available remedies are

<sup>30</sup> We did not hear a lot about these issues in consultation, probably because vacancy rates were low at the time: see *Residential Tenancies Act: General Issues* at para 92.

<sup>31</sup> In 2025, the turnover rate in Alberta markets included in the survey was approximately 27 per cent compared to an average of just over 12 per cent for all markets surveyed: Canada Mortgage and Housing Corporation, *Rental Market Survey Data Tables* (2025), Table 1.0, online: <cmhc-schl.gc.ca/professionals/housing-markets-data-and-research/housing-data/data-tables/rental-market/rental-market-report-data-tables>. Only Saskatchewan had a higher turnover rate. Between 2018 and 2025 the turnover rate in Alberta markets was between 26% and 34%, while the average for all markets was between 12% and 19%: Canada Mortgage and Housing Corporation, *Rental Market Survey Data Tables* (2018-2025), online: <cmhc-schl.gc.ca/professionals/housing-markets-data-and-research/housing-data/data-tables/rental-market/rental-market-report-data-tables>.

<sup>32</sup> *Residential Tenancies Act: General Issues* at paras 32-40.

often either ineffective or too severe. Some participants would like to have more options to solve problems while preserving the relationship.

[62] The *Residential Tenancies Act* includes consequences for violating the legislation or breaching an agreement. These consequences can be sorted into three categories: fines and penalties, financial compensation, or terminating a tenancy.

## 1. FINES OR PENALTIES

[63] Some violations of the *Residential Tenancies Act* are offences, punishable by a fine. Most of them are about a landlord's behaviour.<sup>33</sup> Among other things, a landlord must give tenants the landlord's name and address, keep copies of inspection reports, and keep security deposits in a separate trust account.<sup>34</sup> A landlord may only enter a tenant's home with consent or for a reason in the legislation, usually requiring notice to the tenant.<sup>35</sup> Breaking any of these rules is an offence.<sup>36</sup>

[64] Although these rules are mostly intended to protect tenants, tenants have a limited role in enforcement. A tenant who believes the landlord committed an offence may make a complaint to Service Alberta's Consumer Investigations Unit or police.<sup>37</sup> From that point, the process is out of the tenant's hands. Law enforcement officers may investigate and can decide whether to lay charges or issue a ticket. We heard in consultation that charges are rare and the available data seems to support this observation.<sup>38</sup> Some participants told us that they had made complaints to the Consumer Investigations Unit but did not see any results. Prosecutors handle trials, which must be in court. RTDRS does not have the power to convict a person of an offence or impose a fine. Courts and prosecutors have many matters to deal with and, with limited resources, often

<sup>33</sup> There is one offence that could apply to either landlords or tenants. If a landlord or tenant changes the locks, they must give a key to the other immediately. If they do not, it is an offence: *Residential Tenancies Act*, ss 24, 60(1).

<sup>34</sup> *Residential Tenancies Act*, ss 18, 19(6), 44(1).

<sup>35</sup> *Residential Tenancies Act*, s 23.

<sup>36</sup> *Residential Tenancies Act*, s 60(1).

<sup>37</sup> See Government of Alberta, *File a consumer complaint against a business*, online: <[alberta.ca/file-consumer-complaint](http://alberta.ca/file-consumer-complaint)> [perma.cc/JM5V-7HZS].

<sup>38</sup> The Consumer Investigations Unit provides a summary of enforcement actions, including ones related to residential tenancies. It shows the number of enforcement actions and outcomes but does not include details about the charges. For the most recent three years, it shows a total of 19 charges related to tenancies: 5 in 2023, 9 in 2024, and 5 in 2025. Of those, 14 ended with convictions and 5 are still pending; Government of Alberta, *Business Enforcement Search Tool*, online: <[alberta.ca/lookup/business-enforcement-search-tool.aspx](http://alberta.ca/lookup/business-enforcement-search-tool.aspx)>.

have to give priority to the most serious ones. We heard charges under the *Residential Tenancies Act* may be a low priority.

[65] Upon conviction, the maximum fine for most offences is \$5,000.<sup>39</sup> If an investigator issues a ticket instead of laying charges, the penalty is much lower: \$150 to \$400 depending on the offence.<sup>40</sup>

[66] Fines may deter offences but they do not directly fix the problem. When a landlord commits an offence, it is usually the tenant who is harmed. A charge, conviction, and fine all happen after the offence, when the harm is already done. A conviction does not repair the harm. The money from fines goes to the government, not the tenant.<sup>41</sup> If the landlord is convicted, the benefit to the tenant is intangible. They may feel vindicated but they do not get compensation.

## 2. FINANCIAL COMPENSATION

[67] If a landlord or tenant breaches their obligations under the legislation or a residential tenancy agreement, they may be responsible to pay money to the other.

[68] The *Residential Tenancies Act* has a few different ways to describe remedies that involve money, including damages, abatement of rent, and compensation.<sup>42</sup> A residential tenancy agreement may have others. For example, some residential tenancy agreements say that a tenant must pay a late payment fee in addition to their rent if they do not pay the rent on time.<sup>43</sup> Landlords may charge fees or fines for other kinds of behaviour. We heard about landlords telling tenants they must pay if they make too much noise or do not follow instructions to prepare for pest control treatments. It was unclear whether these other fees or fines were part of a residential tenancy agreement.

[69] If a tenant or landlord thinks they are entitled to financial compensation, it is up to them to pursue it. They can ask the other person to pay and they may

<sup>39</sup> *Residential Tenancies Act*, s 60(1). According to the Government of Alberta's Business Enforcement Search Tool, from 2023 to 2025 the lowest fine was \$100 and the highest was \$3,000. The average amount of fines in that period was \$665. It does not say if some were the result of tickets: Government of Alberta, *Business Enforcement Search Tool*, online: <[alberta.ca/lookup/business-enforcement-search-tool.aspx](http://alberta.ca/lookup/business-enforcement-search-tool.aspx)>.

<sup>40</sup> *Procedure Regulation*, Alta Reg 63/2017, Schedule, Parts 22, 23, 24.

<sup>41</sup> Some other Canadian jurisdictions have a different approach, providing compensation to a tenant if a landlord violates certain rules. For example, in Saskatchewan a tenant may be entitled to punitive damages if a landlord wrongfully locks them out of the rental unit: *Residential Tenancies Act, 2006*, SS 2006, c R-22.0001, s 66(4) [Saskatchewan Act].

<sup>42</sup> See eg *Residential Tenancies Act*, ss 26(1)(b)(ii), (d), 37(1)(a), (b), (c).

<sup>43</sup> See *Residential Tenancies Act: Before and During a Tenancy* at paras 280-282.

pay voluntarily. If they do not, the person seeking money would have to use a legal process to compel payment. Usually that means applying to court or RTDRS. If they convince the court or RTDRS that they are entitled to financial compensation, they will get an order. An order does not guarantee they will actually receive the money. They may have to take more steps to collect it. The collections process can be difficult to navigate and success is not guaranteed. In consultation, some landlords told us they rarely try to collect from a tenant who does not pay after a court or RTDRS makes an order. It is often not worth the effort to collect, given the difficulty of the process and amount of money at stake. If the landlord knows the tenant cannot pay, the landlord may decide there is no point trying to collect. It is impossible to collect money from someone who does not have any.

[70] Sometimes money is an effective way to fix a problem. If a tenant damages a home, for example, a landlord can use money to pay for repairs.

[71] Money may be less effective in other situations. Many problems with residential tenancies are about behaviour or the home. The threat of having to pay may deter certain behaviour. A landlord could tell a tenant they will have to pay if they make excessive noise that disturbs the neighbours. If the problem continues, however, money will not fix the problem. No matter how much money the tenant pays, if they keep making noise their neighbours will still be disturbed. If a residential tenancy agreement says the landlord will provide air conditioning and the air conditioner does not work, a tenant could seek abatement of rent. It may encourage the landlord to fix the air conditioner but paying less rent will not cool the home.

### **3. TERMINATING A TENANCY**

[72] The remaining consequence is terminating a tenancy. If a landlord or tenant does not live up to their obligations, the other may have the option to terminate the tenancy. There are different rules and processes depending on whether a tenant wants to end a tenancy because of a landlord's breach or a landlord wants to end a tenancy because of a tenant's breach. There are more details in Chapters 7 and 8.

[73] Landlords and tenants may turn to termination because other remedies do not solve the problem. When money is not an effective deterrent or cannot repair the harm, or if it is not feasible to collect money, termination may seem like the only option.

#### 4. WARNINGS OR ULTIMATUMS

[74] There is another tool for enforcing obligations, although it is not really a separate consequence or remedy. A warning or ultimatum gives a person a last chance to avoid termination of a tenancy.

[75] Landlords can use ultimatums to encourage a tenant to change their behaviour.<sup>44</sup> Other researchers have observed that landlords sometimes begin the process of terminating a tenancy when they do not actually want to end the tenancy.<sup>45</sup> They may have a different goal, like getting the tenant to pay the rent on time or follow instructions to prepare for pest treatments. The landlord cannot directly make the tenant change their behaviour, so they use an ultimatum to apply pressure instead.

[76] An ultimatum could be informal. A landlord might simply warn a tenant that if they do not make a change, the landlord will begin the process of terminating a tenancy.

[77] There are also formal legal processes that act as a kind of ultimatum. One is set out in section 29 of the *Residential Tenancies Act*. If a tenant does not pay rent, the landlord may give a tenant a notice to terminate the tenancy. The tenant can avoid termination by paying all the rent they owe before the termination date.<sup>46</sup> If they do, the tenancy will continue. Another – a conditional order – is common even though the legislation does not describe it clearly.<sup>47</sup> A court or

<sup>44</sup> If tenants ever use ultimatums, they seem to be rare. We did not find any evidence in our research or hear any examples in our consultation. A tenant's ultimatum would only work if the landlord was worried about the tenant leaving and motivated to continue the tenancy. When we did our consultation, vacancy rates were low. Landlords could usually fill vacancies quickly and easily. It was much harder for a tenant to find a new home than for a landlord to fill a vacancy, so a tenant's ultimatum would usually be ineffective.

<sup>45</sup> Damian Collins et al, "When We Do Evict Them, It's a Last Resort": Eviction Prevention in Social and Affordable Housing" (2022) 32:3 Housing Policy Debate 473 at 482; Philip ME Garboden & Eva Rosen, "Serial Filing: How Landlords Use the Threat of Eviction" (2019) 18:2 City & Community 638. Anecdotal evidence from our consultation and case law provides further support: see eg *Re 20006437*, 2020 ABRTDRS 27 ("The Landlord also text messaged the Tenant saying, 'here is your eviction notice, I will send this notice every time you are late because I don't have time to stay after you. ...'"); *Re 21004801*, 2021 ABRTDRS 21 ("the Tenant expressed that she was exasperated by the Landlord's continuous habit of serving her with a 14-day notice on the second or third day of each tenancy month").

<sup>46</sup> *Residential Tenancies Act*, s 29(4):

29(4) A notice to terminate under this section is ineffective if, before the termination date given in the notice, the tenant

(a) pays all rent due as of the date of payment, if the alleged breach is a failure to pay rent,

...

<sup>47</sup> A conditional order combines an order for recovery of possession, a stay of the order, and conditions on the stay. There is no section in the *Residential Tenancies Act* that directly says a court or RTDRS may stay an order or put conditions on the stay but various parts of the *Residential Tenancies Act* and regulations imply it: see *Residential Tenancies Act*, s 35; *Residential Tenancy Dispute Resolution Service Regulation*, Alta Reg 98/2006, s 15(2).

RTDRS may make an order that requires a tenant to meet certain conditions. A common example would be a payment plan, requiring the tenant to make payments by specific dates.<sup>48</sup> If the tenant meets the conditions, the tenancy continues. If the tenant does not meet the conditions, the landlord does not need to return to court or RTDRS for another order to evict the tenant.

[78] An ultimatum is backed up by the threat of termination. If it does not work, the consequence is usually termination.

### **C. Are There Ways to Resolve Problems Without Ending Tenancies?**

[79] Landlords and tenants may choose to end tenancies because they cannot solve a problem another way. If there is a problem or dispute and none of the available remedies provide an effective way to address it, a landlord or tenant may decide they cannot continue the relationship.

[80] Many participants told us they try to avoid disputes. Landlords told us they prefer to cooperate with tenants to solve problems and they consider legal action a last resort. Tenants and people who represent them said similar things. But cooperation does not always work. Sometimes a landlord and tenant cannot agree on the solution to a problem. It can get to a stalemate, where they disagree and no compromise can be found. If it gets to that point, some participants said it is unlikely that the landlord and tenant will ever successfully cooperate again. They used phrases like “the relationship is over” and “it becomes a toxic situation.” Some participants seemed to believe that making an application to court or RTDRS, or sometimes just mentioning legislation or legal rights, irreparably damages the relationship between a landlord and tenant. They said there is no point trying to preserve or repair the relationship if a dispute reaches a court or RTDRS. In their view, the goal of formal dispute resolution is usually to make a clean break.

[81] If the relationship between a landlord and tenant breaks down, we heard one of them will usually try to end the tenancy. Sometimes they take the earliest opportunity to end the tenancy in compliance with the law. Sometimes they will

<sup>48</sup> See eg *Re 22007908*, 2022 ABRTDRS 30:

IT IS FURTHER ORDERED THAT THE TENANCY WILL NOT BE TERMINATED IF THE FOLLOWING CONDITIONS ARE MET:

The Tenant shall make the following payments to the Landlord:

The amount of \$1,309.00 on or before the 1st day of each and every month commencing on 1 October 2022 and continuing to, and including 1 January 2023.

The amount of \$584.50 on or before the 15th day of each and every month commencing on 15 October 2022 and continuing to, and including 15 January 2023.

end a tenancy in a way that contravenes a residential tenancy agreement or violates the law.

[82] Some participants in our consultation wanted to see more ways to solve problems without ending tenancies or using ultimatums backed up by the threat of termination. Ending a tenancy is inconvenient and costly for everyone. They thought it would benefit landlords and tenants if more tenancies could continue. To support stable tenancies and reduce turnover, however, landlords and tenants may need other effective remedies.

### **ISSUE 1**

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Should legislation encourage landlords and tenants to resolve problems without ending a tenancy?

### **ISSUE 2**

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Would additional or different remedies help landlords and tenants resolve problems without ending a tenancy?

## **D. How Does Ending a Tenancy Affect Co-tenants or Other Household Members?**

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[83] The *Residential Tenancies Act* hardly mentions that several people may share a home, although it is a common situation. Two or more people may be co-tenants.<sup>49</sup> Tenants may also share their home with other household members, sometimes including children, adults who cannot live independently, or pets.

[84] The legislation does not clearly say what happens when co-tenants or other household members have different interests. What happens if one tenant wants to end a tenancy but the rest of the household wants to stay? What happens if one tenant commits a breach that would justify terminating a tenancy but the other household members are innocent?

[85] While the legislation does not answer these questions, court and RTDRS decisions suggest that it is not possible to terminate the tenancy of just one

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<sup>49</sup> See *Residential Tenancies Act: General Issues* at paras 404-410.

tenant.<sup>50</sup> If the tenancy ends, it ends for all of them.<sup>51</sup> It also ends for any other members of the household.

[86] When a tenancy ends, all the tenants and household members lose their home. They have to deal with the disruption of moving and all the changes that come with it.

[87] There may be particular issues for certain household members. For example, children are usually not responsible for problems with a tenancy but might experience hardship if a tenancy ends. It might mean changing schools or childcare, moving farther from family or friends, or losing other community connections. There can also be special issues for survivors of domestic violence. Certain acts of domestic violence may be breaches that justify terminating a tenancy. If a landlord terminates a tenancy because a tenant assaulted a family member in the home, both the abuser and victim lose their home.<sup>52</sup>

[88] There is nothing in the legislation requiring anyone to consider the interests of other household members when ending a tenancy. Should there be?

### **ISSUE 3**

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Should legislation consider the interests of co-tenants or other household members in relation to ending a tenancy?

<sup>50</sup> See eg *Parkbridge Lifestyles Communities Inc. (Parkland Village) v Vanderhaak*, 2011 ABQB 402 at para 9; *Re 23014540*, 2024 ABRTDRS 2: “It would be unusual or legally impossible to terminate the tenancy of one tenant and not the other ...”

<sup>51</sup> Sometimes it may be possible for some tenants or household members to continue living in the home, but only if the landlord agrees. Once a tenancy ends, a landlord could make a new residential tenancy agreement with some of them but does not have to. A landlord could refuse to make a new agreement or could offer to rent on different terms. For example, a landlord could decide that they will only rent to the remaining tenants if the new agreement includes a significant rent increase.

<sup>52</sup> See *Residential Tenancies Act: General Issues* at paras 409-410.



## CHAPTER 3

## Types of Tenancies

**A. Fixed Term and Periodic Tenancies**

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[89] Before considering the rules for ending a tenancy, it is important to discuss the different types of tenancies. The type of tenancy determines when it ends, the reasons to end it, and how much notice a landlord or tenant must give to end it.

[90] Under the *Residential Tenancies Act*, there are two types of tenancies: fixed term and periodic. All tenancies are either one or the other.

[91] There is an easy way to tell the difference between the two types of tenancies. A fixed term tenancy has an end date.<sup>53</sup> A periodic tenancy does not.<sup>54</sup>

**1. FIXED TERM TENANCIES**

[92] To establish a fixed term tenancy, a landlord and tenant must agree on an end date when they make a residential tenancy agreement.

[93] There is nothing in the *Residential Tenancies Act* that limits the length of a fixed term tenancy. There is no minimum or maximum.<sup>55</sup> The length of a fixed term tenancy is up to the landlord and tenant. Many fixed term tenancies are for six months or a year but a landlord and tenant could agree on nearly any end date. In our research, we found examples of fixed term tenancies as short as one month or as long as five years.<sup>56</sup>

<sup>53</sup> *Residential Tenancies Act*, s 1(1)(e):

1(1)(e) “fixed term tenancy” means a tenancy under a residential tenancy agreement for a term that ends on a day specified in the agreement;

<sup>54</sup> *Residential Tenancies Act*, s 1(1)(i):

1(1)(i) “periodic tenancy” means

(i) a tenancy under a residential tenancy agreement that is renewed or continued without notice, ...

<sup>55</sup> There is a reason, however, that a landlord might prefer to avoid a tenancy for a fixed term of more than three years. There are rules in the *Land Titles Act* that apply to a lease for a term of more than three years where a certificate of title has been issued for the land. The owner must complete a written lease using a prescribed form: *Land Titles Act*, RSA 2000, c L-4, s 95. The lessee may register their interest with the Land Titles Office and request a certificate of title to show their leasehold interest in the land: *Land Titles Act*, RSA 2000, c L-4, s 32; Government of Alberta, *Land Titles Procedure Manual*, “Leases”, LEA-1, online: <servicealberta.gov.ab.ca/pdf/ltmanual/LEA-1.pdf> [perma.cc/CK7X-KJ2P]. Assuming a residential tenancy is a lease, which is not certain, it is still unclear if or how these rules would apply to a tenancy for something less than entire parcel of land, like one apartment in a multi-unit building.

<sup>56</sup> See eg *Re 24000733*, 2024 ABRTDRS 11; *Re 23013233*, 2023 ABRTDRS 30.

## 2. PERIODIC TENANCIES

[94] If a landlord and tenant do not agree on an end date from the start of the tenancy, the tenancy is a periodic tenancy.

[95] There are three subtypes of periodic tenancies: weekly, monthly, and yearly. Chapter 6 discusses issues with the different subtypes.

## 3. TENANCIES THAT CONVERT FROM FIXED TERM TO PERIODIC

[96] It is possible for a landlord and tenant to make an agreement that a fixed term tenancy will automatically convert to a periodic tenancy. The *Residential Tenancies Act* mentions this type of agreement in section 1(1)(i):<sup>57</sup>

1(1)(i) “periodic tenancy” means

...

(ii) with respect to a fixed term tenancy that contains a provision allowing for renewal or continuation of the tenancy without notice, that part of the tenancy that arises after the end of the fixed term tenancy, ...

[97] These agreements are sometimes called hybrid tenancies. Although a hybrid tenancy might seem like a third type, it is still correct to say there are only two types of tenancies. At any moment in time, a tenancy is either fixed term or periodic. A hybrid tenancy is a fixed term tenancy until the end date. It then becomes a periodic tenancy.

[98] It is also possible for a fixed term tenancy to become a periodic tenancy without an explicit agreement. If a landlord and tenant continue a tenancy after the end date without making a new agreement, the tenancy becomes a periodic tenancy.<sup>58</sup>

<sup>57</sup> *Residential Tenancies Act*, s 1(1)(i).

<sup>58</sup> *Residential Tenancies Act*, s 1(1)(i):

1(1)(i) “periodic tenancy” means

...

(iii) with respect to a fixed term tenancy that does not contain a provision referred to in subclause (ii), the part of the tenancy that arises after the end of the fixed term tenancy, where the landlord and tenant by their conduct expressly or impliedly indicate that they intend that the tenancy be renewed or continued after the end of the fixed term tenancy;

## **B. How Do Landlords and Tenants Settle on the Type of Tenancy?**

[99] In theory, landlords and tenants can negotiate the type of tenancy. In practice, we heard that landlords often determine the type of tenancy. There are a few reasons.

[100] One reason is a practical one. If there is a written residential tenancy agreement, the landlord usually writes it. A landlord and potential tenant may discuss only a few key terms, like the rent and the date the tenancy will start. They may not explicitly discuss other terms, like the type of tenancy. Once they agree on the key terms, the landlord may present the tenant with a written agreement to sign. Often a tenant simply accepts the terms in the written agreement, including the type of tenancy.

[101] Imbalance of information can be another reason. Lack of information or knowledge can affect both landlords and tenants but some landlords have an advantage.<sup>59</sup> An experienced or sophisticated landlord, like a large corporation, will usually have better access to training, educational materials, and legal advice than their tenants. They are more likely to understand the differences between types of tenancies so they can make informed choices. In consultation, we heard that many tenants do not know that there are different types of tenancies or understand their effects.

[102] Yet another reason relates to bargaining power, which changes with market conditions. When vacancy rates are low, as they were during our consultation, it is easy for landlords to find tenants. A potential tenant can try to negotiate the type of tenancy but they have little bargaining power. If they do not accept the landlord's preferred type of tenancy, the landlord can find someone else who will.

## **C. What Causes Difficulty Determining the Type of Tenancy?**

[103] Usually a landlord and tenant have a shared understanding about the type of tenancy. Sometimes they have a written agreement that clearly states the type of tenancy.

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<sup>59</sup> The first report in this series discusses lack of information and knowledge, how it affects landlords and tenants, and how some face more challenges than others: *Residential Tenancies Act: General Issues* at paras 180-188.

[104] Other times, however, there is no written agreement or the written agreement is not clear. There is no requirement to use a standard form for written residential tenancy agreements. Subtle differences in agreements sometimes result in different legal consequences.

[105] Unless landlords and tenants are meticulous in their agreements and communication, it can be hard to determine what they intended or agreed. In real life, people are not always precise or careful. Some examples from RTDRS cases illustrate the kinds of problems that may arise.

## **1. ORAL OR IMPLIED AGREEMENTS**

[106] It may be hard to determine the type of tenancy when a residential tenancy agreement is oral or implied. There may be problems if the landlord and tenant do not discuss the type of tenancy or do not remember exactly what they discussed.

[107] In a 2025 RTDRS case, the landlord allowed the tenant to move in to a home without making a written agreement.<sup>60</sup> The landlord and tenant had similar memories of their conversation before the tenant moved in but disagreed about what it meant. The landlord told the tenant she wanted to rent to someone who would stay at least six months. The tenant said he planned to stay at least until February 2025, seven months in the future. The landlord thought they had agreed on a six-month fixed term tenancy. She said she usually required tenants to sign a written agreement for a fixed term but did not follow through in this case. The tenant thought it was a monthly periodic tenancy. When the tenant tried to end the tenancy after five months, a dispute arose. A tenancy dispute officer found that they had not clearly agreed on an end date, so it was a monthly periodic tenancy.

## **2. MISUNDERSTANDINGS OR MISTAKES IN WRITTEN AGREEMENTS**

[108] Written residential tenancy agreements are helpful but they do not always prevent confusion or disputes.

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<sup>60</sup> *Re 24014716, 2025 ABRTDRS 2.*

[109] In another 2025 RTDRS case a landlord and tenant had a written residential tenancy agreement.<sup>61</sup> They used a form that allowed them to select the type of tenancy. They filled it so the relevant part of the agreement said:

The tenancy begins on the 1 day of July, 2022 and this shall be the anniversary date.

The term is to run from year to year [x] from month to month [ ], from week to week [ ] and the tenancy continues until the landlord or the tenant gives proper notice to terminate.

OR

The tenancy is for a fixed term, beginning on the \_\_\_ day of \_\_\_\_\_, 20\_\_ and ending on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

[110] A tenancy dispute officer observed “the written tenancy agreement unambiguously created a yearly periodic tenancy.” Nonetheless, the landlord and the tenant apparently both believed they had a one-year fixed term agreement. They later changed the type of tenancy by oral or implied agreements, leading to further confusion and eventually an RTDRS hearing.

### 3. UNCLEAR OR CONTRADICTORY WRITTEN AGREEMENTS

[111] In another case, *Re 22008439*, a written residential tenancy agreement contradicted itself.<sup>62</sup> Two parts of the agreement said different things. One part said the tenancy began on 27 February 2022 and continued year to year “until the landlord or the tenant gives proper notice to terminate.” Another part said the tenancy was a fixed term tenancy beginning on 27 February 2022 and ending on 27 February 2023. As the tenancy dispute officer wrote: “It cannot be both a yearly periodic tenancy and a fixed term tenancy, and must be one or the other.”

[112] The tenancy dispute officer resolved the dispute by applying the *contra proferentum* rule, which says an ambiguous term in an agreement should be interpreted in the way that benefits the person who did not write it. The landlords had written the agreement, meaning it should be interpreted to benefit the tenants. In this case, the tenancy dispute officer decided “it can be understood to be a month-to-month agreement.”

<sup>61</sup> *Re 25010101*, 2025 ABRTDRS 12.

<sup>62</sup> *Re 22008439*, 2022 ABRTDRS 42.

#### 4. RENEWALS OR HYBRID AGREEMENTS

[113] There can be an added layer of difficulty with agreements that renew after an initial term. There are at least five ways a tenancy could continue. The differences are subtle. It can be hard to tell what a landlord and tenant intended, especially if their agreement is oral or implied.

[114] A tenancy might continue because it was a periodic tenancy from the outset. The definition of periodic tenancy in *Residential Tenancies Act* includes “a tenancy under a residential tenancy agreement that is renewed or continued without notice.”<sup>63</sup>

[115] A tenancy might continue because it was a hybrid tenancy. It begins as a fixed term tenancy but converts to a periodic tenancy after the end date.<sup>64</sup>

[116] A tenancy might begin as a fixed term tenancy but continue because of an implied agreement, making it a periodic tenancy.<sup>65</sup>

[117] A tenancy might continue because a landlord and tenant make a new agreement. It could be a new agreement for the same type of tenancy. For example, a tenancy might begin as a fixed term for six months. When the end date comes, the landlord and tenant might agree the tenant will stay another six months and make another fixed term agreement. It could also be a new agreement for a different type of tenancy. For example, a tenancy might begin as a periodic tenancy. Later, the landlord and tenant could make a new agreement for a fixed term tenancy. Any of these agreements could be oral or implied, making it difficult to establish the precise terms of the agreement.

[118] Finally, a landlord and tenant might have an agreement that says how the tenancy will renew. Depending on its terms, it might not fit neatly into other categories. For example, in *Re 24000158*, a 2024 RTDRS case, the parties made a written residential tenancy agreement before the tenants moved in.<sup>66</sup> It was for a one-year fixed term ending 31 July 2018. The agreement said: “Thereafter, the tenancy shall continue for a further one year term, subject to the Landlord’s written approval, until terminated by either the Landlord [or] the Tenant in accordance with this Agreement.” The tenancy dispute officer found it was not a yearly periodic tenancy or a hybrid tenancy as renewal was not automatic.

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<sup>63</sup> *Residential Tenancies Act*, s 1(1)(i)(i).

<sup>64</sup> See *Residential Tenancies Act*, s 1(1)(i)(ii).

<sup>65</sup> See *Residential Tenancies Act*, s 1(1)(i)(iii).

<sup>66</sup> *Re 24000158*, 2024 ABRTDRS 7.

[119] It can be very challenging to determine how a landlord and tenant intended the tenancy to continue after an initial term, especially if there were any oral or implied agreements. Sometimes, even if they started with a written agreement, they may modify it or make new agreements with different terms that are not written down. They may disagree about what they said or did. If they have a dispute that goes to a hearing, a court or RTDRS will usually hear what each person remembers and use that evidence to decide what happened.

[120] In *Re 24000158*, for example, the written agreement said continuing the tenancy after the initial one-year term required the landlord's written approval. The landlord never gave written approval. There were no more written agreements. Nonetheless, the tenancy continued and the tenants lived in the home for approximately six more years. The landlord and tenants occasionally discussed renewing the tenancy but one of the tenants said the conversations did not happen every year. At the end of the tenancy, the landlord and tenants disagreed about the type of tenancy. The landlord believed it was a fixed term tenancy. He said they made a series of oral agreements to renew for further one-year terms, with the last term expiring 31 July 2024. The tenants argued it continued under an implied agreement and was therefore a monthly periodic tenancy.<sup>67</sup> The tenancy dispute officer decided it was a fixed-term tenancy. While it was unclear if the landlord and tenant had oral agreements to renew every year, there was evidence that they had agreed on one-year fixed terms in the final years of the tenancy.

[121] Even when there is good evidence about what each person said or did, they may disagree about what it meant. Another RTDRS case involved a hybrid tenancy. The written agreement said it was a one-year fixed term that would become a periodic tenancy after the end date.<sup>68</sup> More than a month before the end date, the landlord gave the tenant a letter that said:

<sup>67</sup> *Re 24000158*, 2024 ABRTDRS 7. Periodic tenancies can continue by express or implied agreements: *Residential Tenancies Act*, s 1(1)(i)(iii).

<sup>68</sup> *Re 23009644*, 2023 ABRTDRS 25. The agreement said:

The length of this lease shall be from 12:00 noon August 1/2022 to 12:00 noon July 31/2023 and thereafter, on a month-to-month basis commencing on the first day of the following month and the first day of each month thereafter. Written notice shall be required from either the Landlord or Tenant(s) to terminate the tenancy at the end of the fixed term.

The last sentence is contrary to *Residential Tenancies Act*, s 15: "Notwithstanding any agreement to the contrary, notice to terminate is not required in order to terminate a fixed term tenancy."

**RE: Notice of Non-Renewal of Lease**

This letter is notice to you that your current lease/rental agreement for the above-described premises expired on July 31, 2023 and will **NOT** be renewed because of the following reasons:

**Tenant failed to maintain cleanliness in the unit resulting to common areas to smell unpleasant.**

If you choose to remain on the premises, your rent will revert to market rent: \$1,125, starting August 1, 2023. If you wish to know further information regarding this letter, please contact your Resident Manager at [...]

[122] The tenant thought this letter meant the landlord was ending the tenancy and she must move out. She moved out at the end of July and left the keys in the home without telling the landlord. The landlord believed that the tenancy had become a monthly periodic tenancy. When the tenant did not pay rent for August, the landlord made an application to RTDRS for unpaid rent and termination of the tenancy. The tenancy dispute officer found that the tenancy had automatically become a monthly periodic tenancy. The tenant was responsible to pay rent for August and part of September.

#### **D. Why Does the Type of Tenancy Matter?**

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[123] It is important for landlords and tenants to know what type of tenancy they have, especially when one of them wants to end the tenancy. They need to know the type of tenancy so they can follow the rules to end it properly.

[124] A landlord and tenant may not think much about the type of tenancy until one of them tries to end it. One may follow the rules for ending one type of tenancy but the other thinks those rules do not apply. They can end up in a dispute about whether the tenancy is over. There are serious consequences for everyone involved. A tenant who wants to end a tenancy needs to know if they are still responsible for paying rent. A landlord needs to know if the tenant is moving out, if they should try to fill the vacancy, and if they are going to lose rent. A tenant who wants to stay needs to know if they will lose their home. A landlord who wants a tenant to leave needs to know if they can make the tenant leave. There may be a new tenant waiting to move in, who may without a place to stay while they wait to find out if and when the home will be available.

[125] The *Residential Tenancies Act* does not help resolve disputes about whether a tenancy is fixed term or periodic. In a case like *Re 22008439*, with the

contradictory agreement, there is no rule in the *Residential Tenancies Act* that could help a landlord and tenant resolve the dispute on their own.<sup>69</sup> A tenancy dispute officer had to apply a legal rule not found in the *Residential Tenancies Act*.

[126] Similarly, the *Residential Tenancies Act* does not clearly say how to tell if a periodic tenancy is weekly, monthly, or yearly. If it is not specifically stated in a written agreement, a court or RTDRS would have to consider other evidence. In many cases, they might be able to decide based on the timing of rent payments. If the tenant pays rent once a month, it is probably a monthly tenancy. If the tenant pays rent once a week, it is probably a weekly tenancy.<sup>70</sup> It is not a foolproof method, however. A tenant who pays rent once a month probably has a monthly periodic tenancy but it could also be a yearly periodic tenancy.<sup>71</sup> Some landlords and tenants make arrangements that do not fit neatly into one of the three categories. For example, a landlord and tenant could agree that the tenant will pay rent every two weeks.<sup>72</sup>

[127] While courts and tribunals can resolve issues on a case-by-case basis, there are significant downsides. Going to court or RTDRS takes time, costs money, is inconvenient, and the outcome is uncertain. With more guidance in legislation, there might be fewer disputes that need to go to court or RTDRS.

[128] It might be helpful to have rules in the *Residential Tenancies Act* to resolve uncertainty about the type of tenancy or the subtype of periodic tenancy.<sup>73</sup> For example, legislation could include presumptions or default rules. Specific

<sup>69</sup> *Re 22008439*, 2022 ABRTDRS 42.

<sup>70</sup> The definitions of “tenancy month” and “tenancy week” in section 1 says that the month or week begins on the day rent is payable: *Residential Tenancies Act*, ss 1(1)(q), (r):

1(1)(q) “tenancy month” means the period on which a monthly periodic tenancy is based whether or not it is a calendar month, and the month begins on the day rent is payable unless another date is specified in the residential tenancy agreement;

(r) “tenancy week” means the period on which a weekly periodic tenancy is based whether or not it is a calendar week, and the week begins on the day rent is payable unless another date is specified in the residential tenancy agreement;

<sup>71</sup> Unlike the definitions of “tenancy month” and “tenancy week”, the definition of “tenancy year” does not mention when or how often rent is payable: *Residential Tenancies Act*, s 1(1)(s):

1(1)(s) “tenancy year” means the period on which a yearly periodic tenancy is based whether or not it is a calendar year, and the year begins on the day, or the anniversary of the day, on which the tenant first becomes entitled to possession unless another day is specified in the residential tenancy agreement;

There are examples in RTDRS cases of yearly periodic tenancies with tenants paying rent once a month: see eg *Re 21002671*, 2021 ABRTDRS 41; *Re 21011777*, 2022 ABRTDRS 26.

<sup>72</sup> See *Residential Tenancies Act*, s 5(4), which says a periodic tenancy for more than a week but less than a year should be treated as a monthly periodic tenancy:

5(4) If a periodic tenancy of residential premises is for a period of more than one week but less than one year, that tenancy is, for the purposes of terminating the tenancy, deemed to be a monthly tenancy.

<sup>73</sup> Chapter 5 at paras [223]-[232] asks if the different subtypes of periodic tenancies are still necessary and, if they are, whether there should continue to be different notice periods for terminating them. If the rules were the same for all periodic tenancies, it might not be necessary to determine the subtype.

guidance in the legislation could be easier to apply than common law rules like the *contra proferentum* rule. It might help resolve some disputes without going to court or RTDRS.

#### **ISSUE 4**

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How could legislation clarify the type of tenancy? Would default rules help?

## CHAPTER 4

# Overview of Ending a Tenancy

## A. Introduction

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[129] Landlords and tenants cannot end tenancies whenever and however they want. The law limits why, when, and how they can end a tenancy.

[130] In Alberta, many of the rules about ending a tenancy are included in the *Residential Tenancies Act*. It sets out reasons for ending a tenancy. It also sets out processes landlords or tenants must follow. There are different processes depending on the type of tenancy, who ends the tenancy, and the reason. These rules are spread through different parts of the *Residential Tenancies Act* and regulations.

[131] There are also ways to end a tenancy not explicitly mentioned in legislation.

[132] It can be difficult to get an overall picture of all the ways to end a tenancy from the legislation. Rules are in different parts of the legislation and the organization can sometimes seem haphazard. To set the stage for the rest of this report, this chapter provides an overview of all the ways a tenancy can end. Later chapters will discuss issues about specific reasons or processes.

[133] The following tables summarize the reasons for ending a tenancy with key details about the process for each reason, including the minimum notice the person terminating the tenancy must provide.

## 1. REASONS A TENANT MAY END A TENANCY

Table 1 - Reasons a tenant can end a tenancy

	Requirements	
	Periodic	Fixed term
<b>For any reason</b>		
At any time	Written notice depending on the type of periodic tenancy: <ul style="list-style-type: none"> <li>At least 1 month for a monthly tenancy</li> <li>At least 1 week for a weekly tenancy</li> <li>At least 60 days before the end of the tenancy year for a yearly tenancy</li> </ul>	n/a
At the end date	n/a	No notice required
<b>Employee tenancies (ie, a tenancy made because of the tenant's employment with the landlord)</b>		
If the tenant's employment with the landlord ends	Written notice depending on the notice required to terminate employment: <ul style="list-style-type: none"> <li>Notice required to terminate employment under a law in force in Alberta</li> <li>Notice required to terminate employment under an agreement</li> <li>At least 1 week</li> </ul> whichever is longer	n/a
<b>Breach</b>		
Substantial breach (ie, home does not meet minimum standards and the landlord does not comply with an order under the <i>Public Health Act</i> )		At least 14 days written notice OR If ordered by a court or tribunal
Any other breach		If ordered by a court or tribunal
<b>Domestic violence</b>		
Domestic violence (ie, tenant believes their safety or the safety of a child or protected adult who lives with the tenant is at risk)		Obtain a certificate At least 28 days written notice
<b>Practical alternatives</b>		
		By agreement with the landlord Assignment or sublease Repudiation or abandonment

## 2. REASONS A LANDLORD MAY END A TENANCY

Table 2 - Reasons a landlord can end a tenancy

	Requirements	
	Periodic	Fixed term
<b>For any reason</b>		
At any time	Only for specific reasons (see below)	n/a
At the end date	n/a	No notice required
<b>For specific reasons</b>		
The landlord or a relative intends to move in	Written notice depending on the type of periodic tenancy: <ul style="list-style-type: none"> <li>At least 3 months for a monthly tenancy</li> <li>At least 1 week for a weekly tenancy</li> <li>At least 90 days before the end of the tenancy year for a yearly tenancy</li> </ul>	n/a
At the purchaser's request, if the home has been sold and the purchaser or a relative intends to move in		
At the purchaser's request, if the home has been sold and it is a single-family dwelling or condo unit		
To demolish the building		
To convert the home to a non-residential purpose		
For major renovations	At least 365 days written notice	n/a
For condominium conversion		
<b>Employee tenancies (ie, a tenancy made because of the tenant's employment with the landlord)</b>		
If the tenant's employment with the landlord ends	Written notice depending on the notice required to terminate employment: <ul style="list-style-type: none"> <li>Notice required to terminate employment under a law in force in Alberta</li> <li>Notice required to terminate employment under an agreement</li> <li>At least 1 week, whichever is longer</li> </ul>	n/a
<b>Student tenancies (ie, an educational institution rents a self-contained unit to a student of that institution)</b>		
If the tenant is no longer a student or will no longer be a student at end of the notice period	Written notice depending on the type of periodic tenancy: <ul style="list-style-type: none"> <li>At least 3 months for a monthly tenancy</li> <li>At least 1 week for a weekly tenancy</li> <li>At least 90 days before the end of the tenancy year for a yearly tenancy</li> </ul>	n/a
<b>Breach</b>		
For significant damage, assault, or threats	At least 24 hours written notice OR If ordered by a court or tribunal	

Table 2 - Reasons a landlord can end a tenancy cont.

	Requirements	
	Periodic	Fixed Term
Any other breach	At least 14 days written notice OR If ordered by a court or tribunal	
<b>Practical alternatives</b>		
By agreement with the tenant Selling the home Constructive termination Accepting repudiation Unlawful eviction		

## B. Ending a Periodic Tenancy Without a Breach

[134] There are some ways to end a tenancy that apply only to periodic tenancies.

### 1. TENANT ENDING A PERIODIC TENANCY WITHOUT A BREACH

[135] A tenant can end a periodic tenancy for any reason and does not need to give a reason to the landlord. The only requirement is to give the landlord notice.

[136] A tenant has to give a landlord one week's notice to end a weekly periodic tenancy and one month's notice to end a monthly periodic tenancy.<sup>74</sup> For a yearly periodic tenancy, a tenant can end it by giving notice at least 60 days before the end of the tenancy year.<sup>75</sup>

<sup>74</sup> *Residential Tenancies Act*, ss 7, 8(1). A tenant must give at least a full week or month of notice and sometimes more, depending on when they give the landlord notice. If they give the notice before or on the first day of the tenancy month, the tenancy ends on the last day of the week or month. If they give notice later, the tenancy ends on the last day of the next week or month: *Residential Tenancies Act*, ss 7, 8(1)(a), 10(2). For example, assume that a tenant has a monthly periodic tenancy and the tenancy month is the same as the calendar month. If the tenant gives the landlord notice on 1 May, the tenancy will end on 31 May. If they give notice on 2 May, the tenancy will end on 30 June.

<sup>75</sup> *Residential Tenancies Act*, s 9(a).

## 2. LANDLORD ENDING A PERIODIC TENANCY WITHOUT A BREACH

[137] While a tenant can end a periodic tenancy for any reason by giving notice, a landlord cannot. As long as a tenant is fulfilling their obligations, a landlord can only end a periodic tenancy for one of the reasons listed in legislation.<sup>76</sup>

[138] The reasons are:

- The landlord or a relative of the landlord intends to move in;<sup>77</sup>
- The landlord made an agreement to sell the home and the purchaser requests that the landlord end the tenancy, if certain conditions are met;<sup>78</sup>
- The landlord intends to demolish the building;<sup>79</sup>
- The landlord intends to use the home for a non-residential purpose;<sup>80</sup>
- The landlord intends to make major renovations, if certain conditions are met;<sup>81</sup> or
- There is a plan to convert a rental home into a condominium unit and the landlord plans to sell the unit.<sup>82</sup>

[139] A landlord must give the tenant written notice to end a tenancy for any of these reasons. The amount of notice depends on the subtype of periodic tenancy and the reason for ending the tenancy.

## 3. SPECIAL RULES FOR SPECIAL TENANCIES

[140] There are special rules that apply to certain kinds of periodic tenancies.

<sup>76</sup> As ALRI said in another report in this series, it can be difficult to find all the reasons a landlord may end a periodic tenancy. One must consult several different sections in the *Residential Tenancies Act* and a regulation: see *Residential Tenancies Act: General Issues* at para 204.

<sup>77</sup> *Residential Tenancies Ministerial Regulation*, Alta Reg 211/2004, s 2(2)(a) [*Residential Tenancies Ministerial Regulation*].

<sup>78</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(b). See Chapter 5 for details.

<sup>79</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(c)(i).

<sup>80</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(d).

<sup>81</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(c)(ii).

<sup>82</sup> *Residential Tenancies Act*, s 12.

**a. Employee tenancies**

[141] There are special rules for ending a periodic tenancy when the tenant lives in employer-provided housing because of their employment. Either an employer-landlord or employee-tenant can end a periodic tenancy if the employment relationship ends. The special rules include a different notice period, which is often shorter.<sup>83</sup> A tenant or landlord could use this reason if they want to end a tenancy as soon as possible after the tenant's employment ends.

[142] Chapter 10 is about ending employee tenancies.

**b. Student tenancies**

[143] There are also special rules that apply to student housing provided by an educational institution. The rules apply only to certain kinds of student housing, like student apartments operated by colleges or universities.<sup>84</sup> An educational institution may end a periodic tenancy when a tenant is no longer a student.<sup>85</sup> Chapter 11 mentions these rules.

**c. Social and affordable housing**

[144] Finally, there are special rules for some social or affordable housing. These rules apply to subsidized public housing.<sup>86</sup> Chapter 11 briefly mentions these rules.

<sup>83</sup> *Residential Tenancies Act*, s 11. See Chapter 10 for more details.

<sup>84</sup> The *Residential Tenancies Act* only applies to some kinds of student housing. It does not apply to "a tenancy agreement between an educational institution as landlord and a student of that institution as tenant if the tenant does not have exclusive possession of a self-contained dwelling unit": *Residential Tenancies Act*, s 2(2)(e). In other words, it does not apply if a student shares a dorm room. It may apply when a student rents a whole apartment.

<sup>85</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(e).

<sup>86</sup> The definition of subsidized public housing is in *Residential Tenancies Act*, s 1(1)(o):

1(1)(o) "subsidized public housing" means residential premises rented to a tenant of low income who pays rent that is

(i) reduced by reason of public funding provided by the government of Canada or Alberta or a municipality, or by their agents, under the *National Housing Act* (Canada) or the *Alberta Housing Act* or its predecessor, and

(ii) determined by the tenant's income;

## C. Ending a Fixed Term Tenancy

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[145] As long as a landlord and tenant both fulfill their obligations, there is only one way a landlord can end a fixed term tenancy while following the legislation. They can wait until the end date.

[146] A tenant must also wait until the end date in most circumstances. There is only one exception. A tenant may be able to end a fixed term tenancy early because of domestic violence, as discussed below.

[147] A fixed term tenancy automatically ends on the end date. Neither the tenant nor the landlord have any obligations to each other. Neither one has any obligation to renew or continue the tenancy. If the landlord and tenant want the tenancy to continue, they must make a new agreement.

[148] Chapter 6 is about ending fixed term tenancies.

## D. Terminating a Tenancy for Breach

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[149] Many problems with tenancies are about landlords or tenants not living up to their obligations. In other words, one of them breaches the residential tenancy agreement. If the breach is serious enough, it may be a reason to terminate the tenancy.

[150] Termination for breach is the same for both fixed term and periodic tenancies. There are different rules, however, depending on whether the tenant or the landlord wants to terminate the tenancy.

[151] Chapters 7 and 8 discuss termination for breach.

### 1. TENANT TERMINATING A TENANCY BECAUSE OF A LANDLORD'S BREACH

[152] The *Residential Tenancies Act* gives a tenant two ways to terminate a tenancy for a landlord's breach. It depends on the kind of breach.

[153] For most kinds of breaches, a tenant may apply to a court or RTDRS for an order terminating the tenancy.<sup>87</sup> It is up to the court or RTDRS to decide if the breach is serious enough to warrant ending the tenancy.

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<sup>87</sup> *Residential Tenancies Act*, s 37(1)(d).

[154] In very specific circumstances, a tenant has the option to terminate a tenancy without applying to a court or RTDRS.<sup>88</sup> There are several conditions that must be met. One is that the home does not meet minimum standards under the *Public Health Act*.<sup>89</sup> In addition, a public health inspector must have issued an order under the *Public Health Act* and the landlord must have failed to comply. If all those conditions are met, a tenant can end a tenancy by giving a landlord written notice. A tenant also has the option of applying to a court or RTDRS to terminate the tenancy in this situation.

## 2. LANDLORD TERMINATING A TENANCY BECAUSE OF A TENANT'S BREACH

[155] A landlord also has ways to end a tenancy if the tenant breaches the agreement. In most cases, a landlord has two options.

[156] A landlord may apply to a court or RTDRS to terminate a tenancy.<sup>90</sup> If the court or RTDRS finds that the tenant has committed a substantial breach, it may make an order terminating the tenancy.

[157] The other option is to terminate the tenancy by notice. A landlord who believes a tenant has committed a substantial breach may give the tenant a written notice to end the tenancy.<sup>91</sup> They must give the tenant at least 14 days

<sup>88</sup> *Residential Tenancies Act*, s 28:

28(1) A tenant may apply to a court to terminate the tenancy or may terminate the tenancy by serving the landlord with a notice at least 14 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.

<sup>89</sup> *Residential Tenancies Act*, s 1(1)(p):

1(1)(p) "substantial breach" means

...

- (ii) on the part of a landlord, a breach of a covenant specified in section 16(c);

The covenant in section 16(c) is:

16 The following covenants of the landlord form part of every residential tenancy agreement:

...

- (c) that the premises will meet at least the minimum standards prescribed for housing premises under the *Public Health Act* and regulations.

<sup>90</sup> *Residential Tenancies Act*, s 26(1)(c):

26(1) If a tenant commits a breach of a residential tenancy agreement, the landlord may apply to a court for one or more of the following remedies:

...

- (c) where the breach is a substantial breach, termination of the tenancy; ...

<sup>91</sup> *Residential Tenancies Act*, s 29:

29(1) If a tenant commits a substantial breach of a residential tenancy agreement, the landlord may apply to a court to terminate the tenancy or may terminate the tenancy by serving the tenant with a notice at least 14 days before the day that the tenancy is to terminate.

*Continued*

notice before the tenancy ends. A tenant can avoid termination if they pay the rent or object to termination within those 14 days.

[158] Section 30 gives a landlord the option to terminate a tenancy on short notice for certain serious breaches. If a tenant has “done or permitted significant damage” to the home or “physically assaulted or threatened to physically assault the landlord or another tenant”, the landlord may end the tenancy with as little as 24 hours notice.<sup>92</sup> The landlord may give the tenant written notice or may apply to a court or RTDRS to terminate the tenancy. If the landlord gives the tenant written notice, they must give it to the tenant at least 24 hours before the tenancy is to end. If the tenant does not leave by that time, the landlord may apply to court or RTDRS for an order to confirm the termination.<sup>93</sup>

## E. Termination for Domestic Violence

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[159] There are special rules allowing a tenant to end a tenancy in cases of domestic violence. Sections 47.1 to 47.7 of the *Residential Tenancies Act* describe why and how a tenant can end a tenancy for this reason. A tenant may end a tenancy “if, because of domestic violence, the tenant believes that his or her own safety, that of a dependent child of the tenant or of a protected adult who lives with the tenant is at risk if the tenancy continues.”<sup>94</sup> There are certain steps a tenant must follow. Chapter 9 discusses ending a tenancy because of domestic violence.

## F. Practical Options

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[160] There are some other ways out for a landlord or tenant who does not want to continue a tenancy. Most of these options are not clearly described in the *Residential Tenancies Act*. Some, like abandonment or unlawful evictions, may be

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...

(3) Where a landlord terminates a tenancy for non-payment of rent, the notice to terminate must state that the tenancy will not be terminated if, on or before the termination date specified in the notice, the tenant pays the rent due and any additional rent that has become due under the residential tenancy agreement as of the date of payment.

(4) A notice to terminate under this section is ineffective if, before the termination date given in the notice, the tenant

(a) pays all rent due as of the date of payment, if the alleged breach is a failure to pay rent, or

(b) serves the landlord with a notice in writing objecting to the termination that sets out the tenant's reasons for objecting, if the alleged breach is other than a failure to pay rent.

<sup>92</sup> *Residential Tenancies Act*, s 30(1).

<sup>93</sup> *Residential Tenancies Act*, s 30(3).

<sup>94</sup> *Residential Tenancies Act*, s 47.3(1).

wrongful but nonetheless tenants and landlords sometimes choose them as a practical way to get out of a tenancy.

## **1. BY AGREEMENT**

[161] A landlord and tenant may agree to end a tenancy at any time. Chapter 11 discusses this option.

## **2. OTHER OPTIONS FOR A TENANT**

### **a. Assignment or sublease**

[162] A tenant who no longer wants to live in a rented home may be able to assign the tenancy or sublease the home to another person. Either option involves the original tenant finding another person who wants to rent the home. The difference between assignment and subleasing is about the legal relationships and agreements between the people involved. Assignment means the new tenant replaces the original tenant. The original tenant transfers all their rights and responsibilities under a residential tenancy agreement to a new tenant, so the new tenant becomes a party to the existing residential tenancy agreement. With a sublease, the original tenant remains a tenant and there is no change to their rights and responsibilities under a residential tenancy agreement. They make a separate agreement with a subtenant, who rents the home from the original tenant. The subtenant does not have a direct legal relationship with the landlord. Chapter 11 discusses assignment and subleasing.

### **b. Repudiation or abandonment**

[163] Sometimes a tenant simply acts as if the tenancy is ended, without taking any formal steps to end it. A tenant might move out and stop paying rent. The *Residential Tenancies Act* mentions repudiating a tenancy or abandoning the premises. Repudiation or abandonment does not automatically end the tenancy. A tenant is still technically responsible for their obligations until the landlord accepts the repudiation or ends the tenancy another way.<sup>95</sup> Chapter 11 discusses repudiation and abandonment.

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<sup>95</sup> See *Residential Tenancies Act*, s 27(1)(a).

### 3. OTHER OPTIONS FOR A LANDLORD

#### a. Selling the home

[164] Similarly to a tenant assigning a tenancy, a landlord can get out of their obligations by selling the home. A sale does not end the tenancy. Rather, it allows the landlord to transfer their obligations to another person. A landlord can sell a home at any time and they do not need the tenant's consent. The purchaser replaces the original landlord, taking over their rights and responsibilities permanently. The purchaser becomes the landlord and the original landlord has no further obligations.

#### b. Accepting repudiation

[165] If a tenant repudiates a tenancy or abandons a home, a landlord may choose to accept the repudiation, which ends the tenancy.<sup>96</sup> The landlord may still seek damages.<sup>97</sup> Chapter 11 discusses this scenario in more detail.

#### c. Constructive termination

[166] Sometimes a landlord who does not have a direct way to end a tenancy will try an indirect way. If a landlord cannot force a tenant to leave, they still might be able to make it difficult or uncomfortable for the tenant to stay. Some other researchers call it informal eviction.<sup>98</sup> In this report, we call it constructive termination.

[167] Some actions that might be described as constructive termination are raising the rent to an amount the tenant cannot afford, allowing the condition of the home to deteriorate, or disturbing or harassing a tenant. Chapter 11 discusses constructive termination.

#### d. Unlawful evictions

[168] We also heard about landlords directly forcing tenants to leave by locking them out or removing their belongings from the home. It is a violation of the law for a landlord to take matters into their own hands this way. A landlord who wants to evict a tenant must first apply to court or RTDRS for an order for

<sup>96</sup> *Residential Tenancies Act*, s 27.

<sup>97</sup> *Residential Tenancies Act*, s 27(3).

<sup>98</sup> See eg Zell & McCullough, note 2 at iii-iv; Sarah Buhler, "Pandemic Evictions: An Analysis of the 2020 Eviction Decisions of Saskatchewan's Office of Residential Tenancies" (2021) 35 J L & Soc Pol'y 68 at 73-74.

recovery of possession. If the court or RTDRS grants the order, the landlord must hire a civil enforcement agency to carry out the eviction. Nonetheless, some landlords do it anyway.<sup>99</sup>

## G. Other Ways a Tenancy Ends

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[169] Finally, there are a few ways that a tenancy might end even though neither the tenant nor the landlord wants to end it. Chapter 11 discusses them, including:

- frustration;
- death of a tenant;
- termination by a condominium corporation; and
- termination under the *Safer Communities and Neighbourhoods Act*.

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<sup>99</sup> See Chapter 11 at para [525].

## CHAPTER 5

# Ending a Periodic Tenancy Without a Breach

## A. What Are the Ways to End a Periodic Tenancy?

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[170] This chapter and the next one are about ending a tenancy without a breach, or in other words, ending a tenancy when both the landlord and tenant have fulfilled their obligations. This chapter discusses how a landlord or tenant may end a periodic tenancy. The next discusses fixed term tenancies.

[171] There are no reliable statistics about how many tenancies end without a breach. A landlord or a tenant who has a valid reason to end a periodic tenancy without a breach can do so by giving notice in writing to the other. The process usually occurs privately, without the involvement of any government office, court, or tribunal.

## B. How Does a Tenant End a Periodic Tenancy?

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### 1. REASONS

[172] A tenant can end a periodic tenancy for any reason and does not need to give a reason to the landlord.

### 2. NOTICE

[173] The amount of notice a tenant must give a landlord depends on the type of periodic tenancy.<sup>100</sup> A tenant must give a landlord at least one week's notice to end a weekly periodic tenancy and at least one month's notice to end a monthly periodic tenancy.<sup>101</sup> A tenant must give notice to the landlord by the first day of the tenancy week or month if they intend to end the tenancy on the last day of the week or month. If they give the notice any later, the tenancy continues for

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<sup>100</sup> There are special rules about notice for employee tenancies: see Chapter 10.

<sup>101</sup> *Residential Tenancies Act*, ss 7, 8(1).

another week or month.<sup>102</sup> For a yearly periodic tenancy, they must give notice 60 days before the end of the tenancy year.<sup>103</sup>

### 3. ISSUES

[174] We did not hear any specific concerns about these rules in consultation. We did hear, however, that some landlords find it difficult to deal with unpredictability. A landlord may be taken by surprise when a tenant ends a periodic tenancy. If a tenant has weekly or monthly periodic tenancy, a landlord may not have much time to fill the vacancy without losing income: as little as a week for a weekly tenancy and a month for a monthly tenancy. They may lose income if they do not find a new tenant in time to replace the one moving out. The timing could be inconvenient for the landlord. There can be a lot of work to do when a tenant moves out: advertising for a new tenant, meeting potential tenants, completing move-out and move-in inspections, and dealing with a security deposit.<sup>104</sup> An individual who manages just one or a small number of rental homes may do all the work themselves. If a tenant ends a tenancy at an inconvenient time, the landlord may face difficult choices. For example, consider a homeowner who rents a secondary suite in their home. It could be very difficult if a tenant ends a tenancy during the landlord's busy season at work or right before a planned vacation.

[175] A landlord might prefer fixed term tenancies because they can predict when vacancies will occur and plan ahead.

## C. How Does a Landlord End a Periodic Tenancy?

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### 1. REASONS

[176] A landlord can only end a periodic tenancy for one of the reasons listed in the legislation.<sup>105</sup> Leaving aside the special rules for employee tenancies, student tenancies, and subsidized public housing, there are six reasons a landlord may end a periodic tenancy without a breach.

<sup>102</sup> *Residential Tenancies Act*, ss 7, 8(1)(a), 10(2). See note 74 for an example.

<sup>103</sup> *Residential Tenancies Act*, s 9(a).

<sup>104</sup> See *Residential Tenancies Act*, s 19.

<sup>105</sup> See *Residential Tenancies Act*, ss 6(1), 11, 12; *Residential Tenancies Ministerial Regulation*, s 2(2).

**a. Landlord or relative moving in**

[177] A landlord can end a periodic tenancy if the landlord or a relative of the landlord intends to live in the home.<sup>106</sup>

**b. If the home is sold**

[178] If a landlord sells a home, the purchaser may request that the landlord end a periodic tenancy. The landlord can only end the tenancy once the agreement to sell the home is unconditional. Further, this reason is only available in two specific situations. A landlord may end a tenancy if the purchaser requests it and:

- the purchaser or a relative intends to move in;<sup>107</sup> or
- “the agreement is to sell one detached or semi-detached dwelling unit or one condominium unit.”<sup>108</sup>

**c. To demolish the building**

[179] A landlord may end a periodic tenancy if the landlord intends to demolish the building.<sup>109</sup>

**d. To use the home for a non-residential purpose**

[180] A landlord may end a periodic tenancy if the landlord “intends to use or rent the residential premises ... for a non-residential purpose.”<sup>110</sup>

**e. Major renovations**

[181] Renovations can be a reason for a landlord to end a periodic tenancy, if certain conditions are met.<sup>111</sup> A landlord can only end a tenancy for “major renovations”, which the legislation says “does not include painting, the

<sup>106</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(a).

<sup>107</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(b)(i).

<sup>108</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(b)(ii).

<sup>109</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(c)(i).

<sup>110</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(d).

<sup>111</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(c)(ii).

replacement of a floor covering or routine maintenance.”<sup>112</sup> In addition, the renovations must “require the premises to be unoccupied.”<sup>113</sup>

**f. Conversion to condominium**

[182] A landlord can end a periodic tenancy if there is a plan to convert a rental home into a condominium unit and the landlord plans to sell the unit.<sup>114</sup>

[183] Most other Canadian jurisdictions have similar reasons, although the details vary slightly.

**Table 3 - Reasons a landlord can terminate a periodic tenancy without a breach**

	AB	BC	SK	MB	ON	QC	NB	NS	PEI	NL	YK	NWT	NT
The landlord or a relative intends to move in	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
The home has been sold and the purchaser or a relative intends to move in	✓	✓	✓	✓	✓			✓*	✓		✓	✓	✓
To demolish the building	✓	✓	✓	✓	✓			✓	✓	✓*	✓	✓	✓
To convert the home to a non-residential purpose	✓	✓	✓	✓	✓	✓**	✓		✓	✓*	✓	✓	✓
For major renovations	✓	✓	✓	✓	✓	✓**	✓	✓	✓	✓*	✓	✓	✓
For condominium conversion	✓	✓	✓		✓						✓		

\* Only applies to homes that meet certain criteria.

\*\*A 3-year moratorium is in place in Quebec, preventing ending a tenancy for certain reasons unless vacancy rates rise above 3%. The moratorium will last from June 2024 to June 2027.

<sup>112</sup> *Residential Tenancies Ministerial Regulation*, s 2(1)(a).

<sup>113</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(c)(ii).

<sup>114</sup> *Residential Tenancies Act*, s 12.

## 2. NOTICE

[184] The amount of notice a landlord must give a tenant depends on the subtype of periodic tenancy and the reason for terminating the tenancy.

[185] Usually a landlord must give the tenant one week of notice to end a weekly periodic tenancy and three months to end a monthly periodic tenancy.<sup>115</sup> For a yearly periodic tenancy, the landlord must give the tenant notice 90 days before the end of the tenancy year.<sup>116</sup>

[186] The notice period is longer if a landlord ends a tenancy for major renovations or to convert the home into a condominium. In these circumstances, the landlord must give the tenant notice at least 365 days before the termination date.<sup>117</sup>

### D. General Issues About a Landlord's Reasons

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[187] At least one recent study suggests the most common reason tenancies end is a landlord's decision to end a tenancy without a breach.<sup>118</sup>

[188] In consultation, we did not hear many concerns about the reasons for ending a periodic tenancy. It seems most participants thought the reasons in the legislation are appropriate. There are, however, some specific issues or problems about applying some of the reasons.

#### 1. LACK OF KNOWLEDGE

[189] While we did not hear many concerns about the reasons themselves, we did hear about problems due to lack of knowledge or misconceptions. When a landlord, tenant, or both do not understand the rules, a tenant may lose their home needlessly.

<sup>115</sup> *Residential Tenancies Act*, ss 7, 8.

<sup>116</sup> *Residential Tenancies Act*, s 9.

<sup>117</sup> *Residential Tenancies Act*, 12(2) *Residential Tenancies Ministerial Regulation*, s 2.1. The regulation modifies the time period in the statute: see *Residential Tenancies Act: General Issues* at para 205.

<sup>118</sup> Silas Xuereb & Craig Jones, *Estimating No-Fault Evictions in Canada: Understanding BC's Disproportionate Eviction Rate in the 2021 Canadian Housing Survey* (Balanced Supply of Housing Research Partnership, 2023) at 12-13, online: <[bsh.ubc.ca/wp-content/uploads/2024/06/Estimating-No-Fault-Evictions-in-Canada.pdf](https://bsh.ubc.ca/wp-content/uploads/2024/06/Estimating-No-Fault-Evictions-in-Canada.pdf)> [perma.cc/E8HK-N7MZ]. It is worth noting that the data used for this study was collected from tenants and they could only report one reason for eviction.

[190] We heard anecdotes in our consultation and saw examples in the Reddit data about landlords attempting to end tenancies for reasons not allowed by legislation or for no reason at all. A participant who assists landlords said they often hear from landlords who mistakenly believe they can end a tenancy because they plan to list the home for sale. The same issue came up in the Reddit data. A handful of posts described landlords trying to end tenancies because they wanted to sell a home without having an unconditional agreement to sell it. There were also examples of landlords giving notices to end a tenancy without a valid reason. Some had a general explanation, like personal reasons or financial reasons. Others gave no reason at all.

[191] Some participants said that tenants often assume a notice from the landlord is valid. A tenant may not know a landlord can only end a tenancy for certain reasons or know whether the stated reason is one allowed by legislation. Even if they believe there is a problem with the notice, they may not know what they can do. A tenant who receives a notice to end the tenancy may believe that they have no choice but to move out. These participants said tenants often move out after getting a notice, even if the reason for ending the tenancy was not one allowed by legislation or there was another problem with the notice.

## 2. UNCLEAR LEGISLATION

[192] The organization and drafting of the legislation may contribute to lack of knowledge or confusion.<sup>119</sup> It is likely because of how the legislation has evolved. The *Residential Tenancies Act* has been assembled in parts by amendments over time.<sup>120</sup> The organization sometimes seems haphazard and it can be unclear how different parts of the legislation fit together.

[193] It is easy to miss the part of the legislation that says a landlord must have a reason to end a periodic tenancy without a breach. There are two key sections in the *Residential Tenancies Act* that must be read together. Section 5 begins:<sup>121</sup>

5(1) A weekly, monthly or yearly tenancy may be terminated by either the landlord or the tenant on notice to the other.

<sup>119</sup> The first report in this series explained why it is especially important to have clear legislation about residential tenancies: *Residential Tenancies Act: General Issues* at paras 193-197.

<sup>120</sup> ALRI has discussed this problem elsewhere: see *Residential Tenancies Act: General Issues* at para 199; *Residential Tenancies Act: Before and During a Tenancy* at para 179.

<sup>121</sup> *Residential Tenancies Act*, s 5(1).

[194] This section can be traced back to the first version of the legislation. When the legislature adopted the first *Landlord and Tenant Act*, in 1964, it had a rule equivalent to today's section 5(1).<sup>122</sup> Until 1991, either a landlord or tenant could end a tenancy for any reason or no reason.

[195] Section 5 does not mention that a landlord must have a reason to end the tenancy.

[196] In 1991, following the recommendations of the Ministerial Advisory Committee on Residential Tenancies, the legislature added a new section to the legislation, limiting a landlord's ability to end a periodic tenancy. It is now section 6, which says:<sup>123</sup>

6(1) A notice under this Part from a landlord to a tenant to terminate a periodic tenancy is of no effect unless the termination is for one or more of the prescribed reasons or for the reasons set out in section 11 or 12.

[197] It seems many readers overlook section 6. Even readers with legal training or experience reading legislation can miss it.

[198] To find the specific reasons a landlord may end a periodic tenancy without a breach, a reader must consult several other sections of the *Residential Tenancies Act* and a regulation.<sup>124</sup> Readers who are not used to reading legislation may not realize that the word "prescribed" in section 6 means they must look for reasons in a regulation. Replacing the *Residential Tenancies Act* with new, modern, clear legislation might help everyone understand the legislation better.<sup>125</sup>

### 3. UNCLEAR PROCESS FOR DISPUTE RESOLUTION

[199] In consultation, we heard concerns that a landlord could misuse the process, ending a tenancy even though they do not intend to follow through on the stated reason. A landlord's notice to end a tenancy has to include the reason but there is no requirement to prove that the reason is genuine.<sup>126</sup> In consultation, the Reddit data, and case law, we found examples of tenants who had reasons

<sup>122</sup> *The Landlord and Tenant Act*, SA 1964, c 43, s 3(1):

3(1) A weekly or monthly or year to year tenancy may be terminated by either the landlord or the tenant upon notice to the other ...

<sup>123</sup> *Residential Tenancies Act*, s 6(1).

<sup>124</sup> *Residential Tenancies Act*, ss 6, 11, 12; *Residential Tenancies Ministerial Regulation*, s 2.

<sup>125</sup> The first report in this series asks if the *Residential Tenancies Act* should be redrafted or replaced: *Residential Tenancies Act: General Issues* at para 198.

<sup>126</sup> *Residential Tenancies Act*, s 10(1)(c).

for doubting the landlord's stated reasons for ending the tenancy. In some of these examples a landlord gave one reason at first but gave a different reason after a tenant objected or pointed out an issue.<sup>127</sup> In others, there was evidence that a landlord did not follow through on the stated reason. We heard several stories like the following example.

### Example 1 – Doubtful Reason for Ending a Tenancy

Taylor's landlord gave Taylor a notice to end a tenancy. The notice said the reason was that the landlord intends to move in. The notice met all the other requirements. The termination date was 31 May. Taylor started searching rental listings, looking for a new place to live. While searching, Taylor came across a listing posted by the landlord, advertising Taylor's home for rent. The home is unique, so there is no doubt that it is the same place. The ad says that the home is available on 1 June, the day after Taylor's tenancy ends.

[200] It is not clear from the legislation if or how a tenant can object if they suspect the landlord's reason is not genuine and whether a court or RTDRS can intervene.

[201] In theory, there could be a consequence if the landlord does not use the home for the stated reason. Section 6(2) says:<sup>128</sup>

6(2) A landlord who gives a notice under this Part to a tenant to terminate a periodic tenancy for one or more of the prescribed reasons or for the reasons set out in section 12 contravenes this Act if the tenant vacates the premises and the landlord does not use the premises for the reasons set out in the notice within a reasonable time after the termination date set out in the notice.

[202] If a landlord ends a tenancy without a breach but does not use the home for the stated reason, they could be charged with an offence. As discussed in

<sup>127</sup> See eg *Re 23012653*, 2023 ABRTDRS 29. The first notice to end the tenancy said the reason was "the properties are sold." A second notice said "the property has now been sold and the new owner is taking possession." In this case, it was not a reason allowed by legislation as the property had four dwellings. Later, in an RTDRS hearing, the landlord said the reason for ending the tenancy was to do renovations. See also *Re 23003294*, 2023 ABRTDRS 17.

<sup>128</sup> *Residential Tenancies Act*, s 6(2).

Chapter 2, a tenant has a limited role in this process. We heard that charges are rare. If a landlord is found guilty and liable to pay a fine, the money goes to the government, not the tenant.

[203] While a possible consequence might deter misuse, it does not directly prevent tenants from losing their home. The offence can only occur after the tenancy has ended and the tenant has moved out. By then, the harm is done and the tenant has lost their home.

[204] The legislation does not say how a tenant could avoid losing their home if a landlord does not follow the legislation. While section 6 says a notice to end a tenancy “is of no effect” if it is not for one of the reasons in legislation, it does not mention any way for a tenant to object to a notice. Elsewhere in the *Residential Tenancies Act* there is a list of remedies a court or RTDRS can grant.<sup>129</sup> The list does not include a remedy that would prevent a tenant from losing their home in this situation.

[205] If a tenant wants a court or RTDRS to review a landlord’s notice or reason for ending a tenancy, there are two possible ways a tenant could seek a hearing. Both have significant downsides. One is to move out and make a claim for damages. A tenant who selects this option is certain to lose their home. There is no guarantee that they will receive damages and if they do, the damages may cover only some of their losses.<sup>130</sup> The other way is to stay in the home, refusing to move out unless the landlord obtains an order for recovery of possession.<sup>131</sup> This option gives a tenant a chance of staying in the home but the outcome is uncertain. If the tenant is unsuccessful, they might find they have very little time

<sup>129</sup> *Residential Tenancies Act*, s 37:

37(1) If a landlord commits a breach of a residential tenancy agreement or contravenes this Act, the tenant may apply to a court for one or more of the following remedies:

- (a) recovery of damages resulting from the breach or contravention;
- (b) abatement of rent to the extent that the breach or contravention deprives the tenant of the benefit of the residential tenancy agreement;
- (c) compensation for the cost of performing the landlord’s obligations;
- (d) termination of the tenancy by reason of the breach or contravention if in the opinion of the court the breach or contravention is of such significance that the tenancy should be terminated.

<sup>130</sup> See eg *Re 23003294*, 2023 ABRTDRS 17. The landlord gave the tenant a notice to terminate that said a relative of the landlord would occupy the home. The tenant moved out. He paid a higher rent for a new home. Soon after moving out, the tenant saw the home advertised for rent. He applied to RTDRS seeking general damages for stress and inconvenience, special damages for the expense of hiring movers, and “rent differential” to cover the difference in rent. The tenancy dispute officer found the landlord’s stated reason for terminating the tenancy was untrue. The tenancy dispute officer ordered the landlord to pay \$500 as general damages and the actual cost of hiring movers but declined to award anything for rent differential.

<sup>131</sup> See eg *Re 23012653*, 2023 ABRTDRS 29.

to move out.<sup>132</sup> Even if the tenant is successful, it may only buy them some time. If the problem with the notice or reason for ending the tenancy can be corrected, the landlord may issue a new notice to end the tenancy properly.<sup>133</sup>

[206] Other Canadian jurisdictions have more detailed rules, with more safeguards to prevent misuse. British Columbia has particularly robust protections for tenants. As in Alberta, in British Columbia a landlord who wants to end a tenancy without a breach must give the tenant a notice including the reason but there are additional requirements. In British Columbia, some reasons for ending a tenancy require the landlord to use an online system to create the notice.<sup>134</sup> The online system requires the landlord to provide details that confirm the reason, such as information about a relative or purchaser who will occupy the home. The legislation and the notice both say that a tenant may dispute the notice within a certain time.<sup>135</sup> If the tenant does so, the tenancy does not end until British Columbia's Residential Tenancy Branch holds a hearing and confirms the end of the tenancy. A landlord must also pay a tenant compensation if they end a tenancy without a breach. They must pay an amount equal to one month's rent or allow the tenant to withhold that amount in the last month.<sup>136</sup> If the landlord does not use the home for the stated purpose, the landlord has to pay the tenant an additional 12 months rent.<sup>137</sup>

[207] While the requirements in British Columbia are unusually detailed, other Canadian jurisdictions have legislation with clear rules about dispute resolution for ending a tenancy without a breach. Some have rules that say how a tenant

<sup>132</sup> If a court or RTDRS makes an order for recovery of possession, the order usually includes the date by which the tenant must leave or be evicted: see *Residential Tenancies Act*, ss 34, 34.1. The court or RTDRS has discretion to set a date it considers fair in the circumstances. There is no minimum amount of notice. A landlord has to give at least three months' notice to terminate a monthly periodic tenancy but if the issue goes to a hearing, an order could require the tenant to leave within weeks or even days after the hearing.

<sup>133</sup> See *Re 23008254*, 2023 ABRTDRS 15. The tenant did not move out after the landlord gave notice to end the tenancy. The landlord applied to RTDRS for an order for recovery of possession. The tenancy dispute officer found that the notice was invalid but added "this does not prevent the Landlord from serving a new and valid notice of termination that includes the reason for the termination. If the Landlord were to serve a new valid three-month notice by 1 September 2023, he could be entitled to vacant possession of the rental premises as soon as 30 November 2023."

<sup>134</sup> *Residential Tenancy Act*, SBC 2002, c 78, ss 1 "generated notice", 53.1 [BC Act]; *Residential Tenancy Regulation*, BC Reg 477/2003, s 42.1; Government of British Columbia, "Types of evictions" (4 March 2026, online: <[www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/ending-a-tenancy/evictions/types-of-evictions](http://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/ending-a-tenancy/evictions/types-of-evictions)> [perma.cc/ M4E2-PS7Z]).

<sup>135</sup> BC Act, note 134, s 49(8); *Residential Tenancy Regulation*, BC Reg 477/2003, s 42.3. See also the sample form: Government of British Columbia, "Sample: Three Month Notice to End Tenancy for Purchaser's Use of Property", online: <[gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/samplertb-32p.pdf](http://gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/samplertb-32p.pdf)> [perma.cc/M23W-BC9N].

<sup>136</sup> BC Act, note 134, s 51.

<sup>137</sup> BC Act, note 134, s 51(2).

may dispute the end of the tenancy before it occurs, bringing the issue to a court or tribunal that will review the reason.<sup>138</sup> Some have rules requiring landlords to pay compensation to tenants if they end a tenancy without a breach<sup>139</sup> and rules requiring a landlord to pay additional compensation if they do not follow through on the stated reason.<sup>140</sup>

## ISSUE 5

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How could legislation clarify the process for dispute resolution if a tenant objects to ending a tenancy without a breach?

### E. Issues About Specific Reasons

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#### 1. WHO IS A RELATIVE OF THE LANDLORD?

[208] One of the reasons a landlord may end a periodic tenancy without a breach is “if the landlord or a relative of the landlord intends to occupy the residential premises of the tenant.”<sup>141</sup>

[209] Almost all Canadian jurisdictions allow a landlord to end a tenancy for this reason, although details may differ. For example, some have a more prescriptive approach to defining who counts as a relative. The definition of relative in Alberta’s legislation is very broad:<sup>142</sup>

2(1)(b) “relative” includes any relative by blood, marriage or adoption or by virtue of an adult interdependent relationship.

[210] In contrast, British Columbia has a narrower definition, with a short list of relationships:<sup>143</sup>

49(1) In this section:

"close family member" means, in relation to an individual,

(a) the individual's parent, spouse or child, or

<sup>138</sup> See eg Saskatchewan Act, note 41, s 60(9).

<sup>139</sup> See eg *The Residential Tenancies Act*, CCSM, c R119, ss 98(3), 99(3) [Manitoba Act]; *Residential Tenancies Act, 2006*, SO 2006, c 17, ss 48.1, 49.1, 52, 54 [Ontario Act].

<sup>140</sup> See Saskatchewan Act, note 41, s 62; Manitoba Act, note 139, ss 98(4), (5), 99(4), (5); Ontario Act, note 139, s 57.

<sup>141</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(a)

<sup>142</sup> *Residential Tenancies Ministerial Regulation*, s 2(1)(b).

<sup>143</sup> BC Act, note 134, s 49. See also Ontario Act, note 139, s 48(1); Saskatchewan Act, note 41, s 60(1)(a).

(b) the parent or child of that individual's spouse;

...

(3) A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

[211] Other jurisdictions have lists that, while prescriptive, include some people who might not count as a relative in Alberta. In Ontario, for example, the list includes a person who provides care to the landlord or certain family members of the landlord.<sup>144</sup> In Saskatchewan, a landlord can end a tenancy so a “close family member or friend” can move in. The definition of “close family member or friend” includes “any other person who a hearing officer is satisfied has a close relationship with the individual and should be recognized for the purposes of this section.”<sup>145</sup>

[212] In our consultation, we did not hear that Alberta’s broad definition causes problems. Some participants had concerns about landlords misusing this reason but their concerns were mostly about the possibility of a landlord making a false claim about the intended use of the home, not about the relationship between the landlord and a relative. In a diverse society like Alberta, people may have many different ideas about who they consider to be family and what responsibilities family members have to each other. A broad, flexible definition may be an appropriate way to reflect this diversity.

## 2. CAN A CORPORATION TERMINATE A TENANCY SO THE LANDLORD OR A RELATIVE CAN MOVE IN?

[213] While the definition of relative does not seem to cause problems, there is another issue about ending a tenancy so a relative can move in.

[214] It is unclear if this reason applies if the landlord is a corporation. On the one hand, a corporation does not have relatives. It is a separate legal entity,

<sup>144</sup> Ontario Act, note 139, s 48(1):

48(1) A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by,

(a) the landlord;

(b) the landlord's spouse;

(c) a child or parent of the landlord or the landlord's spouse; or

(d) a person who provides or will provide care services to the landlord, the landlord's spouse, or a child or parent of the landlord or the landlord's spouse, if the person receiving the care services resides or will reside in the building, related group of buildings, mobile home park or land lease community in which the rental unit is located.

<sup>145</sup> Saskatchewan Act, note 41, ss 60(1)(a), (4).

distinct from its shareholders or directors. When business owners choose to structure their businesses as corporations, they choose to separate the business from their personal affairs as individuals. On the other hand, it is common for individuals or families to treat closely held corporations as a kind of alter ego. If a person is the sole shareholder and director of a corporation that owns a home, they may expect that they or a family member could move into that home if the need arose.

[215] Other Canadian jurisdictions have clear rules, although there is no consensus about what the rules should be. In Ontario, for example, only individuals can end a tenancy so the landlord or a relative can move in.<sup>146</sup> Some other jurisdictions have legislation that allows certain corporations to end a tenancy so a shareholder or their relative may move in.<sup>147</sup>

[216] It might help to clarify whether a corporation can end a tenancy so an individual can live in the home. If so, should it be limited to certain corporations or certain individuals? Which ones?

## ISSUE 6

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If a landlord is a corporation, should the landlord be able to end a tenancy so an individual can occupy the home?

### 3. WHAT ARE THE ISSUES ABOUT ENDING A TENANCY FOR MAJOR RENOVATIONS?

[217] We heard a lot about renovictions during our consultation. Renoviction is a term used to describe ending a tenancy for major renovations.<sup>148</sup> Other research suggests it is becoming more common.<sup>149</sup> It is hard to measure this trend in Alberta. The *Residential Tenancies Act* allows a landlord to end a tenancy by giving a notice to a tenant.<sup>150</sup> A landlord does not need to make an application or report to any authority when they give a tenant a notice to end a tenancy. No one tracks the number of notices or the reasons.<sup>151</sup>

<sup>146</sup> Ontario Act, note 139, s 48(5).

<sup>147</sup> See eg BC Act, note 134, ss 49(1), (4); Saskatchewan Act, note 41, ss 60(1)(b), (5).

<sup>148</sup> "Renoviction [...] refers to the eviction of tenants resulting from a renovation of their apartment or building. Renovictions generally occur legally within tenancy regulations ...": Zell & McCullough, note 2 at iv.

<sup>149</sup> See eg Zell & McCullough, note 2 at 3.

<sup>150</sup> *Residential Tenancies Act*, s 5.

<sup>151</sup> The first report in this series says more about the lack of data about residential tenancy issues: *Residential Tenancies Act: General Issues* at paras 32-40.

[218] The legislation says a landlord may end a periodic tenancy “to make major renovations ... that require the premises to be unoccupied.”<sup>152</sup> The legislation clarifies that:<sup>153</sup>

2(1)(a) “major renovations” does not include painting, the replacement of a floor covering or routine maintenance;

[219] Even with this clarification, there is a lot of room for debate about what is a major renovation. It would be hard to create general rules. There could be exceptions to any rule, even the ones that already exist. Painting or replacing floor coverings are usually straightforward and quick projects but it may not always be true. For example, either could be a challenging and complicated project if a tenant with hoarding behaviour has filled the home with possessions.

[220] Some participants felt that some landlords misuse this reason, ending tenancies for renovations that did not actually require the home to be vacant or that could have been accomplished if the tenant left the home for a short time. We heard a few similar stories. Often the tenants in these stories were low income people paying lower than average rent. We heard that the renovations were often cosmetic and were completed very quickly after the tenants left. Within weeks or months, the homes were rented to new tenants at much higher rents.

[221] While every Canadian jurisdiction allows landlords to end a tenancy for major renovations, most have more safeguards than Alberta. Some require landlords to have all necessary permits and approvals before they may end a tenancy.<sup>154</sup> Some require landlords to seek permission from a government office or tribunal before ending a tenancy for renovations to ensure landlords only do so if it is actually necessary.<sup>155</sup> In British Columbia, for example, new requirements were introduced in 2021 requiring a landlord to apply for an order to end a tenancy for renovations. A landlord must secure permits and approvals before applying. The Residential Tenancy Board must consider the reason for the renovations and if the renovations require the home to be vacant or could be completed without ending the tenancy.<sup>156</sup>

<sup>152</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(c)(ii).

<sup>153</sup> *Residential Tenancies Ministerial Regulation*, s 2(1)(a).

<sup>154</sup> See eg Saskatchewan Act, note 41, s 60(7); *Residential Tenancy Act*, RSPEI 1988, c R-13.11, s 64; *Residential Tenancies Act*, SY 2025, c 7, s 63(2).

<sup>155</sup> See eg BC Act, note 134, s 49.2; *Residential Tenancies Act*, SNB 1975, c R-10.2, s 24.13; *Residential Tenancies Act*, RSNWT 1988, c R-5, s 59.

<sup>156</sup> BC Act, note 134, s 49.2.

[222] Some other Canadian jurisdictions also require a landlord to give a former tenant a right of first refusal when renovations are completed.<sup>157</sup> In other words, the landlord must offer them the chance to move back into the home before offering it to other potential tenants.

### **ISSUE 7**

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Should legislation have more specific rules about when and how a landlord may end a tenancy for major renovations?

### **ISSUE 8**

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If a landlord ends a tenancy for major renovations, should the former tenant have the option to move back into the home when the renovations are complete?

## **F. Issues About Notice to End a Tenancy**

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### **1. SHOULD THE NOTICE PERIOD VARY WITH THE TYPE OF TENANCY?**

[223] The main difference between weekly, monthly, and yearly periodic tenancies is the amount of notice a landlord or tenant must give to terminate the tenancy.

[224] ALRI has not found any reliable information about how many tenancies are periodic and how many of those are weekly, monthly, or yearly. As far as we know, no one collects this information. We have not found any statistics or research attempting to measure how common each type of tenancy is.

[225] Anecdotally, however, it is clear that monthly tenancies are the most common subtype of periodic tenancy. In our research and consultation, we heard almost nothing about weekly or yearly periodic tenancies.<sup>158</sup> It seems that the vast majority of periodic tenancies are monthly.

<sup>157</sup> See eg BC Act, note 134, s 51.2; Manitoba Act, note 139, s 99(6); Ontario Act, note 139, s 53.

<sup>158</sup> As far back as 1977, ALRI observed that yearly periodic tenancies seem to be rare: *Residential Tenancies* 1977 at 85. We found a few examples of yearly periodic tenancies in our research: see eg *Re 20009763*, 2021 ABRTDRS 4; *Re 21007992*, 2021 ABRTDRS 40; *Re 21002671*, 2021 ABRTDRS 41; *Re 21011777*, 2022 ABRTDRS 26; *Re 25010101*, 2025 ABRTDRS 12. We did not find any examples of weekly periodic tenancies.

**a. Are weekly or yearly periodic tenancies still relevant?**

[226] The three subtypes of periodic tenancies have been part of the legislation from the beginning.<sup>159</sup> It may be that 60 years ago, when the legislature first passed legislation about tenancies, weekly or yearly tenancies were common and most people would have understood how to tell the difference. Today, however, it is not obvious that all three subtypes are still relevant.

[227] The different subtypes of periodic tenancies add to the complexity of the legislation. As discussed in Chapter 3, landlords or tenants are sometimes confused about the type or subtype of tenancy they have.

[228] If weekly and yearly tenancies are obsolete, removing them would simplify the legislation.

## **ISSUE 9**

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Should the types of periodic tenancies be simplified?

**b. Should the notice period vary with the subtype of periodic tenancy?**

[229] If weekly and yearly periodic tenancies are not obsolete, it may still be desirable to streamline the different notice periods.

[230] One might ask why tenants or landlords would deserve different amounts of notice depending on the subtype of periodic tenancy. Notice periods give tenants time to find a new place to live and to move. They give landlords time to find a new tenant. The time to find a home or a tenant does not change with the type of tenancy. It is not clear whether there was ever a reason for the different amounts of notice. If there was one 60 years ago, it may not matter today.

[231] At least one Canadian jurisdiction has moved away from these kinds of rules. In British Columbia, the *Residential Tenancy Act* mentions monthly and weekly tenancies but the notice period to end them is the same.<sup>160</sup>

<sup>159</sup> See *The Landlord and Tenant Act*, SA 1964, c 43, s 3.

<sup>160</sup> See BC Act, note 134, ss 1 "periodic tenancy", 13(2)(f), 45(1):

1 "periodic tenancy" means

(a) a tenancy on a weekly, monthly or other periodic basis under a tenancy agreement that continues until it is ended in accordance with this Act, ...

...

13(2) A tenancy agreement must comply with any requirements prescribed in the regulations and must set out all of the following:

*Continued*

[232] In particular, it is worth asking if there should be a longer notice period for ending a weekly periodic tenancy. One week gives tenants and landlords very little time to find a new home or a new tenant. A tenant is likely to experience hardship if they have to only one week to find a new home and move.

## **ISSUE 10**

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Should notice periods for ending a periodic tenancy without a breach be harmonized, so the notice period would be the same regardless of whether it is a weekly, monthly, or yearly tenancy?

### **2. SHOULD THE NOTICE PERIOD VARY WITH THE REASON FOR ENDING A TENANCY?**

[233] Similarly, it is unclear why tenants would deserve different amounts of notice depending on a landlord's reason for ending a tenancy.

[234] A tenant may need time to find a new home and to move regardless of the landlord's reason for terminating a tenancy. The reason does not change their prospects for finding a new home. Why should a tenant who loses their home because of major renovations get 365 days notice while a tenant who loses their home because the landlord plans to demolish it gets much less?

## **ISSUE 11**

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Should notice periods for ending a periodic tenancy without a breach be harmonized, so the notice period would be the same regardless of the reason?

...

(f) the agreed terms in respect of the following:

...

(ii) if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis;

...

45(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

See also BC Act, note 134, s 49(2); *Residential Tenancy Regulation*, BC Reg 477/2003, s 42.2.



## CHAPTER 6

# Ending a Fixed Term Tenancy Without a Breach

## A. Why Is the Difference Between Fixed Term and Periodic Tenancies Important?

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[235] The *Residential Tenancies Act* says very little about fixed term tenancies. We have not found any reliable statistics about the number of fixed term tenancies but anecdotally, it seems that they are very common.<sup>161</sup> In consultation, we heard that many landlords prefer fixed term tenancies. Landlords are often able to choose the type of tenancy, for the reasons discussed in Chapter 3, so a landlord who prefers fixed term tenancies can usually have them. Some landlords encourage tenants to agree to fixed term tenancies by offering rental incentives, like a discount on rent. We heard that some insist on fixed term tenancies and will not agree to a periodic tenancy.

[236] The *Residential Tenancies Act* hints at an important difference between fixed term and periodic tenancies but does not clearly spell it out. The difference is about why, when, and how either a landlord or tenant can end a tenancy.

[237] The *Residential Tenancies Act* and regulations have detailed rules about ending a periodic tenancy. In contrast, the legislation says very little about fixed term tenancies. There are only two sections in the *Residential Tenancies Act* about how a fixed term tenancy ends.<sup>162</sup> They are structured differently from the rules about ending a periodic tenancy and are in other parts of the legislation, making it hard to compare the rules for the two kinds of tenancies.

[238] It would be hard for a person reading the legislation to understand how fixed term tenancies and periodic tenancies differ. In consultation, we heard that some landlords and tenants do not realize that their rights will be very different depending on the type of tenancy. There are advantages and disadvantages to

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<sup>161</sup> In the Reddit data, 139 posts mentioned the type of tenancy. Of those, 100 said they had a fixed term tenancy and 39 said they had a periodic tenancy.

<sup>162</sup> They are *Residential Tenancies Act*, ss 1(1)(e), 15. Section 1(1)(e) says:

1(1)(e) “fixed term tenancy” means a tenancy under a residential tenancy agreement for a term that ends on a day specified in the agreement;

Section 15 says:

15 Notwithstanding any agreement to the contrary, notice to terminate is not required in order to terminate a fixed term tenancy.

each kind of tenancy. If a landlord or tenant does not understand those advantages and disadvantages, it can be hard to decide which type of tenancy would be better for them. It can be hard for a tenant to negotiate about the type of tenancy, especially if the landlord is a large corporation. One reason is imbalance of information. Unclear, hard-to-understand legislation contributes to this imbalance.

## **B. What Are the Advantages and Disadvantages During the Term?**

### **1. FOR TENANTS**

#### **a. Security of tenure**

[239] As long as the tenant fulfills their obligations, a landlord cannot end a fixed term tenancy early. A tenant has nearly a guarantee that they can stay in the home until the end date. In other words, they have strong security of tenure during a fixed term.<sup>163</sup>

#### **b. Predictable rent**

[240] Most fixed term residential tenancy agreements set rent for the entire term. A tenant knows that the rent will not increase before the end date.

[241] This feature has little impact, however, for those with fixed term tenancies for one year or less. It only benefits tenants with fixed term tenancies for more than one year. The reason is that the *Residential Tenancies Act* limits how often a landlord can increase rent. Regardless of the type of tenancy, a landlord can only increase rent if at least one year has passed since the start of the tenancy or the last increase.<sup>164</sup> Anecdotally, it seems most fixed term tenancies are for one year or less.

<sup>163</sup> Security of tenure generally means that a tenant has legal protections allowing them to remain in their home: see eg *Residential Tenancies 1977* (“Should the law be changed so that a tenant who pays his rent and performs his other obligations would be entitled to remain indefinitely in the rented premises unless the landlord withdraws the premises from the rental market? That is to say, should the law confer upon the tenant what is called ‘security of tenure’?” at 130); CL Michel, *Security of Tenure in Canada: Summary Report* (Office of the Federal Housing Advocate, 2023), online: <homelesshub.ca/wp-content/uploads/2024/03/Summary-Report-Security-of-Tenure-in-Canada.pdf> [https://perma.cc/B37D-DQTN] (“Everyone has a right to feel stable in their home, to know they can stay there long term without being displaced. This is known as security of tenure, and it is an essential part of the right to adequate housing” at 5).

<sup>164</sup> *Residential Tenancies Act*, s 14(4).

[242] This feature probably mattered more in the past. Before 2007, a landlord could increase rent if at least six months had passed since the start of a tenancy or the last increase. A one-year fixed term tenancy would offer a tenant protection against mid-year rent increases. The legislature amended the legislation in 2007, introducing the current one-year rule.<sup>165</sup>

**c. Lack of flexibility**

[243] A trade off for security of tenure is lack of flexibility. It is hard for a tenant to end a fixed tenancy early.

[244] As discussed in Chapter 4, the *Residential Tenancies Act* gives only two reasons for a tenant to end a fixed term tenancy early: breach by the landlord or domestic violence. If neither of those reasons applies, a tenant can try the practical options: agreement with the landlord, assignment or sublease, or repudiation.

[245] Aside from these few reasons, a tenant cannot end a fixed term tenancy early. It does not matter why they want to end the tenancy or how much hardship continuing the tenancy may cause.

[246] A tenant can move out before the end of a fixed term but they cannot escape their obligations. A tenant will be responsible to pay rent until one of four things happens: the landlord agrees to end the tenancy early, the tenant is able to assign the tenancy, the tenant repudiates the agreement and the landlord finds another tenant who pays the same rent or more, or the end date arrives. If the tenant does not pay, the landlord could apply to court or RTDRS for an order for recovery of arrears of rent and take steps to enforce the order.

[247] Examples help to illustrate how this aspect of fixed term tenancies may affect a tenant.

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<sup>165</sup> *Tenancies Statutes Amendment Act, 2007*, SA 2007, c 11, s 1(4).

### *Example 2 – Tenant’s Financial Difficulty*

Irina is from Lethbridge and attended college there. She recently graduated and got a job in Grande Prairie. She found a suite for rent in Grande Prairie and agreed to rent it for a one-year fixed term. With her new salary, she expected she could easily pay the rent and cover her other expenses.

Unfortunately, Irina’s new job did not work out. She lost her job within a couple months. She does not qualify for EI. She has student debt and no savings. She has no leads for new jobs in Grande Prairie. She has paid her rent on time so far but will not be able to pay rent next month. She would like to move home to Lethbridge, where she can live with her parents rent-free.

[248] Inability to pay the rent is not a reason to end a fixed term tenancy early. If Irina had a monthly periodic tenancy, she would be able to end it by giving the landlord one month’s notice. As it is a fixed term, however, she cannot unilaterally end it before the end date. She can move out but until one of the four things happens, she remains responsible for paying rent, whether or not she can afford it. Next month, when she cannot pay the rent, she may face legal action from the landlord.

### *Example 3 – Moving for Care*

Ravi is an elderly man who lives alone. He has lived for many years in a rented home. His landlord insists on fixed term tenancies so every year, Ravi and the landlord sign a new agreement for a one-year fixed term tenancy. They just signed the most recent agreement a few weeks ago.

Ravi’s health has been declining and he was recently admitted to hospital. His doctor says he needs ongoing care and can no longer live alone. He will have to move to a continuing care home. Ravi lives on a fixed income. He can pay to live in continuing care but will have very little left for extras.

[249] A change in the tenant's health or circumstances is not a reason to end a fixed term tenancy early. Ravi can move to continuing care but until one of the four things happens, he will still be responsible to pay the rent.

## 2. FOR LANDLORDS

### a. Certainty and predictability

[250] A fixed term also offers some security to a landlord. It makes tenancies more predictable. They can expect to receive rent until the end of the term. They can plan ahead for vacancies because they know the end date of the tenancy from the outset.

### b. Lack of flexibility

[251] For landlords, as for tenants, a trade off is lack of flexibility. A landlord can only end a fixed term tenancy early if the tenant commits a breach. If the tenant is fulfilling their obligations and does not want to move out, the landlord cannot force them to leave before the end date. It does not matter what the landlord's reason is. A fixed term tenancy can tie up a landlord's property, making it harder to deal with an unexpected change in circumstances.

[252] Examples illustrate how this aspect of fixed term tenancies can affect a landlord.

#### *Example 4 – Landlord's Financial Difficulty*

Noor bought a condominium unit as an investment property. She rented it to Gordon. He asked for a two-year fixed term tenancy. He wanted to stay at least two years and, as he lives on a fixed income, he wanted to be sure that rent would not increase during that time. Noor was happy to have a stable tenant. She agreed to Gordon's proposal. They made an agreement for a two-year fixed term tenancy.

Soon afterwards, interest rates rose sharply and Noor's mortgage payments increased. Her monthly mortgage payments are now more than the rent. She is losing money every month and has almost used up her savings. She has decided she must sell the condo unit to avoid insolvency. When she discussed listing it for sale with a real estate agent, the real estate agent said it will be hard to sell the condo unit with a tenant in place. The real estate agent said most potential buyers are looking for a home and want to move in as soon as the sale closes.

[253] Listing a home for sale or even selling it do not give a landlord the right to end a fixed term tenancy early. If it was periodic tenancy, and if Noor found a purchaser, once the agreement to sell was unconditional the purchaser could request that Noor end Gordon's tenancy.<sup>166</sup> As it is, however, Noor can only end the tenancy early with Gordon's agreement. He could insist on staying until the end date. Noor will only be able to sell it if she finds a buyer willing to become Gordon's landlord until the end date.

### Example 5 – The House Fire

Mai rents a home from Tayo. They have a one-year fixed term tenancy.

Tayo lives nearby. Unfortunately, there was a fire at Tayo's house and it burned to the ground. It will take a year or more to rebuild. Tayo is staying in a hotel for now but would prefer to live in the home that he owns.

[254] A landlord's need for a home is not a reason to end a fixed term tenancy early. If it was a periodic tenancy, Tayo could end the tenancy to move in.<sup>167</sup> With a fixed term tenancy, however, Tayo cannot make Mai move out early so he can live in the home.

## C. What Are the Advantages and Disadvantages at the End of the Term?

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[255] During a fixed term, both landlords and tenants have security but little flexibility.

[256] When the end date comes, however, the situation reverses. Either the tenant or the landlord can end the relationship for any reason. A fixed term tenancy automatically ends on the end date. If the landlord and tenant want the tenancy to continue, they must make a new agreement. Neither one has any

<sup>166</sup> See *Residential Tenancies Ministerial Regulation*, s 2(2)(b). See also Chapter 5 at para 178.

<sup>167</sup> See *Residential Tenancies Ministerial Regulation*, s 2(2)(a).

obligation to renew or continue the tenancy. There is no security of tenure for tenants and no certainty for landlords.

[257] Whether it is an advantage or disadvantage depends on the circumstances. A tenant might be glad to leave at the end of a fixed term tenancy. Another might be devastated about losing their home. A landlord might be relieved that they do not have to continue to rent to a tenant they dislike. Another might be disappointed to see a good tenant leave.

[258] A final example illustrates some of the conflicting interests.

### *Example 6 – The Difficult Tenant*

Avery works for a large corporation that owns many rental properties. Avery manages several properties, including some townhouses.

Jacob rents one of the townhouses. He lives there with his two children and their dog. The family has lived in the same home for almost ten years, since the oldest child was an infant. The home is close to Jacob's work and the children attend the neighbourhood school. Jacob feels very lucky to have a home that allows dogs, as there are very few homes for rent in the area that allow pets.

Jacob pays rent on time and does not break any building rules. Nonetheless, Avery finds Jacob difficult to deal with. Jacob is often abrupt when he communicates with Avery, to the point of being rude. Jacob often makes complaints about other tenants, sometimes sending Avery dozens of messages in a day to say that other tenants are making too much noise. Avery has investigated but concluded Jacob's complaints are groundless. Dealing with the complaints is a hassle and causes extra work for Avery. Jacob is very rigid about some things and often tells Avery "I know my rights". He never allows Avery or repair people to enter the townhouse unless Avery has provided written notice at least 24 hours in advance, even if the entry is to complete repairs that Jacob requested. It makes it difficult for Avery to organize repairs and takes extra time.

Avery gets lots of inquiries from people who want to rent one of the townhouses. Avery has no doubt it would be easy to find a new tenant who would be more pleasant and cooperative than Jacob.

[259] If Jacob had a periodic tenancy, Avery could only end Jacob's tenancy for one of the reasons in the legislation, like major renovations, converting the building to a non-residential use, or demolishing the building.<sup>168</sup> Unless one of those things happens, Jacob can stay as long as he pays rent on time and fulfills his other obligations.

[260] With a fixed term tenancy, Avery cannot end Jacob's tenancy early. Once the end date comes, however, Avery can decide not to make another agreement with Jacob. Avery does not need a reason. Jacob would have to move out. It does not matter that Jacob always pays rent on time, that he has lived in the home for a long time, or that he wants to stay. It does not matter that a move could cause hardship for Jacob and his family. A move might mean a longer commute for Jacob, a change of schools for the children, or giving up their dog, but if Avery will not rent to him again there is nothing Jacob can do.

[261] In consultation, we heard different perspectives about this aspect of fixed term tenancies.

[262] We heard that some landlords appreciate that they can use a fixed term tenancy as a kind of trial period.

[263] Some participants were concerned that fixed term tenancies undermine security of tenure for tenants. They thought that landlords use fixed term tenancies to make it easier to get rid of tenants they dislike, even if the tenant has done nothing wrong.

[264] This problem is especially acute when the fixed term is very short. There is no limit on the length of a fixed term tenancy. We have heard of fixed term tenancies for as little as one month.

[265] A recent RTDRS case illustrates how a landlord can use a short fixed term tenancy to get rid of a tenant for a reason that might otherwise be illegitimate. The tenancy dispute officer observed that it "may seem like an unfair loophole" but there is nothing to prevent it.<sup>169</sup> In *Re 24000733*, the landlord and tenant "entered a series of fixed term agreements, each for a term of one month."<sup>170</sup> After moving in, the tenant raised concerns about the condition of the home. The landlord refused to address the concerns and the tenant eventually contacted

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<sup>168</sup> See *Residential Tenancies Act*, ss 6, 11, 12; *Residential Tenancies Ministerial Regulation*, s 2. See also Chapter 5 at paras [176]-[182].

<sup>169</sup> *Re 24000733*, 2024 ABRTDRS 11.

<sup>170</sup> *Re 24000733*, 2024 ABRTDRS 11.

Alberta Health Services. A public health inspector visited the home, identified violations of the *Minimum Housing and Health Standards*, and directed the landlord to address them. The next month, when the fixed term ended, the landlord told the tenant the tenancy was over and the tenant must move out. The tenant refused. In an RTDRS hearing, the tenant alleged that the landlord's actions were retaliation for making the complaint to Alberta Health Services.<sup>171</sup> The tenancy dispute officer agreed that was why the landlord refused to rent to the tenant but found that nothing could be done:<sup>172</sup>

While I agree with the Tenant that it is obvious that the Landlord decided against renewing the tenancy agreement specifically because the Tenant made a complaint under the *Public Health Act* and made an application to the RTDRS under the *Residential Tenancies Act*, deciding to not renew a tenancy agreement after it expires is not the same as terminating a tenancy.

When a fixed term tenancy expires, unless a landlord and a tenant agree to continue the tenancy, a landlord is under no obligation to continue the tenancy. A landlord needs no reason whatsoever to decide against continuing a tenancy after the expiration of a fixed term agreement.

In this case, the Landlord did not terminate the tenancy. Rather the tenancy expired, and the Landlord decided against renewing. Whatever the Landlord's reasons for deciding against renewing the agreement, that is his choice to make. This may seem like an unfair loophole, but this is what the legislation, as it currently exists, allows. There is no prohibition in the *Residential Tenancies Act* against very short fixed-term tenancy agreements, and there is no obligation to renew a fixed-term agreement.

## D. Other Issues with Fixed Term Tenancies

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[266] There are a few other issues with fixed term tenancies.

<sup>171</sup> The legislation says a landlord may not terminate a tenancy to retaliate against a tenant who makes a complaint to public health authorities: see *Residential Tenancies Act*, s 25:

25 No landlord shall

(a) terminate a tenancy, or

(b) take any kind of retaliatory action against a tenant including, without limitation, the imposition of a financial penalty,

by reason only of the tenant's having made an application, filed a statement, made a complaint, assisted in an investigation or inquiry or given evidence at a hearing under this Act or the *Public Health Act*.

<sup>172</sup> *Re 24000733*, 2024 ABRTDRS 11.

## 1. NOTICE OF RENEWAL OR NON-RENEWAL

[267] Some landlords and tenants agree to fixed term tenancies even if they both hope the tenancy will continue indefinitely. It is not unusual to renew fixed term tenancies, sometimes year after year.

[268] Problems can arise if a landlord and tenant do not communicate about their intentions before the end date. Sometimes one of them simply assumes they will make a new agreement, while the other does not.

[269] There is no obligation for a tenant to inform the landlord in advance that they do not intend to stay, nor does a landlord have an obligation to inform the tenant that they do not intend to let the tenant stay. It might be helpful if landlords and tenants could agree that either one of them must provide advance notice of their intentions. Unfortunately, they cannot. While either one could give notice as a courtesy, section 15 of the *Residential Tenancies Act* explicitly forbids landlords and tenants from making an agreement that requires notice to terminate a fixed term tenancy. It says:<sup>173</sup>

15 Notwithstanding any agreement to the contrary, notice to terminate is not required in order to terminate a fixed term tenancy.

[270] The result is that one or the other can be taken completely by surprise. It could happen that a tenant or a landlord only learns on the last day of the tenancy that the other does not intend to make another agreement. The tenancy will simply end on the end date. A tenant in this situation would have no opportunity to look for another place, pack, or arrange to move. A landlord would have no opportunity to advertise or show the home to potential tenants. They may lose income until they can fill the vacancy.

## 2. NOTICE OF RENT INCREASE

[271] Similarly, a landlord does not need to give a tenant notice before increasing the rent, if the rent increase will be in a new agreement. As discussed above, a landlord can only increase rent if at least one year has passed since the

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<sup>173</sup> *Residential Tenancies Act*, s 15. If a residential tenancy agreement has this kind of term, it is unenforceable. For example, in *Re 24010731*, 2024 ABRTDRS 18, a written residential tenancy agreement included a term that required the tenant to give two months written notice to end the tenancy. The tenancy dispute officer wrote:

A fixed term tenancy ends at the expiry of the fixed term. Neither a landlord nor a tenant can unilaterally give notice to end it early, nor must either party give the other notice that they want the tenancy to end when the written agreement clearly stipulates it will end. At the expiry of the fixed term, it is expected that a tenant will vacate unless there is an agreement to continue the tenancy.

start of the tenancy or the last increase.<sup>174</sup> If the tenancy is a periodic tenancy, a landlord must also give notice of the rent increase: at least 12 weeks for a monthly tenancy, 3 months for a quarterly tenancy, or 90 days for a yearly tenancy.<sup>175</sup>

[272] If a tenancy is a fixed term tenancy, there is no requirement to give notice of a rent increase. It is because the landlord and tenant must make a new agreement if the tenant will stay after the end date. They can renegotiate any terms, including rent, although they could only agree to a higher rent if at least one year has passed since the last rent increase. There are no requirements about when or how landlords and tenants negotiate a new agreement. While it would be good practice to start discussions early, neither a landlord nor a tenant has any obligation to start negotiations before the end of a fixed term tenancy. A landlord could wait until the last day of a fixed term tenancy before offering a tenant a new agreement and a tenant could do the same.

[273] If a landlord and tenant leave negotiations to the last minute, they could face surprises. In particular, a tenant might be surprised if the landlord proposes a new agreement with a higher rent. With notice of a rent increase, a tenant can weigh their options. If they think the landlord's proposed rent is not fair or affordable, they can try to negotiate for a lower rent or start looking for a new home. If they find out about the landlord's proposed rent with only days or hours left in the tenancy, they have to make a decision quickly. If they do not agree to the landlord's offer, they may lose their home on short notice.

### 3. LEASE BREAK FEES

[274] While the legislation does not offer any way to terminate a fixed term tenancy early, there are practical ways to get out of a tenancy before the end date. If a tenant wants to end the tenancy early, they can ask the landlord to agree, they can assign the tenancy, or they can repudiate the tenancy.

[275] Some landlords anticipate that a tenant may want to leave early and deal with the possibility in their residential tenancy agreements. Some residential tenancy agreements say a tenant must pay a lease break fee if the tenant moves out before the end of a fixed term tenancy. A lease break fee may be in addition to the consequences for repudiating a tenancy in the *Residential Tenancies Act*.

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<sup>174</sup> *Residential Tenancies Act*, s 14(4).

<sup>175</sup> *Residential Tenancies Act*, s 14(1).

[276] Another report in this series discusses lease break fees.<sup>176</sup> With a lease break fee, the consequence for ending a fixed term tenancy early may be more severe than the consequence in the *Residential Tenancies Act*. In some cases, it might cost less for a tenant to continue the tenancy until the end date. Courts and tribunals almost always find lease break fees to be unenforceable, but nonetheless some landlords ask tenants to pay them.<sup>177</sup>

## E. What Are the Options for Reform?

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[277] We heard a lot about fixed term tenancies in consultation.

[278] Some participants emphasized the disadvantages and would prefer to see limits on fixed term tenancies. In other parts of Canada, some have suggested abolishing fixed term tenancies entirely.<sup>178</sup>

[279] We also heard from participants who appreciate the features of fixed term tenancies. Some tenants prefer to have strong security of tenure during the term, even if it is temporary. It gives them certainty that they will not have to move before the end date. Some landlords appreciate the certainty of a fixed term tenancy. They can count on receiving rent for the entire term and they can predict when vacancies will occur and plan ahead. Some use fixed term tenancies as a kind of trial period for new tenants. Some appreciate that they can refuse to continue a tenancy past the end date. If they have problems with a tenant, they can end the tenancy without a breach or a specific reason. They do not need to justify their decision to a court or tribunal.

[280] Many participants, whether they liked or disliked fixed term tenancies, would like to see reforms to address specific problems around renewals or rent increases.

<sup>176</sup> *Residential Tenancies Act: Before and During a Tenancy* at paras 271-275.

<sup>177</sup> In the Reddit data, there were 7 posts where tenants said their landlords demanded a lease break fee.

<sup>178</sup> See Danielle Edwards, “Halifax man faces eviction following year of complaints to property management company” *CBC News* (17 November 2025), online: <[cbc.ca/news/canada/nova-scotia/halifax-man-eviction-complaints-residential-tenancies-program-9.6979505](https://www.cbc.ca/news/canada/nova-scotia/halifax-man-eviction-complaints-residential-tenancies-program-9.6979505)> [perma.cc/7SRR-X9VM]:

[Hannah Main, a community legal worker with Dalhousie Legal Aid Service] said situations like Pearson’s are why her organization—and others like it—are calling for an end to fixed-term leases to better serve tenants.

“I personally would be happy if we didn’t have fixed-term leases at all, because what they’re allowing landlords to do is evict without cause,” she said.

[281] One option to resolve problems with fixed term tenancies would be to abolish them. If fixed term tenancies did not exist, there would be no need to clarify or reform rules about them.

[282] A more moderate option would be to limit fixed term tenancies. Some participants in our consultation suggested a fixed term tenancy should automatically convert to a periodic tenancy after a certain amount of time.

## **ISSUE 12**

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Should there be limits on fixed term tenancies?

[283] Others suggested smaller changes. As long as fixed term tenancies are permitted, it would be helpful to clarify the rules for them. Some specific questions to address might be:

- Should there be limits on the length of fixed term tenancies? Should legislation set minimums or maximums?
- Should a tenant be able to end a fixed term tenancy early for reasons other than breach by a landlord or domestic violence? For example, should a tenant be able to end a fixed term tenancy early to move into continuing care or if an accident or illness means they can no longer access the home?<sup>179</sup>
- Should a landlord be able to end a fixed term tenancy early for reasons other than breach by a tenant? If so, for what reasons?
- Should a landlord or tenant have to inform the other whether they would like to renew the tenancy before the end date?<sup>180</sup>

<sup>179</sup> See Jennifer Koshan & Jonnette Watson Hamilton, “The Residential Tenancies Act and Domestic Violence: Facilitating Flight?” (4 December 2015), online: *ABLawg* <ablawg.ca/2015/12/04/the-residential-tenancies-act-and-domestic-violence-facilitating-flight/> [perma.cc/S42L-ERHR]. Legislation in some other Canadian jurisdictions allows tenants to end fixed term tenancies early for these and other reasons: see eg Manitoba Act, note 139, ss 92.5, 92.6; *Residential Tenancies Act*, RSNS 1989, c 401, ss 10C, 10D.

<sup>180</sup> Some other Canadian jurisdictions require notice: see eg *Residential Tenancies Regulations, 2007*, RRS c R-22.0001 Reg 1, s 8.2.

- Should a landlord have to give notice of a proposed rent increase before the end date?
- Should legislation address lease break fees?

### **ISSUE 13**

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How could legislation clarify rules about fixed term tenancies?

## CHAPTER 7

# Termination for Breach: What Is a Breach?

## A. Termination for Breach

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[284] If a landlord or tenant does not live up to their obligations the other may have the option to terminate the tenancy. In this report, we call it termination for breach. This chapter and the next one are about termination for breach.

[285] The rules about termination for breach apply to any type of tenancy. It does not matter if the tenancy is fixed term or periodic.

[286] This chapter considers two key questions about breach. First, what is a breach? Second, what kinds of breaches are a reason to terminate a tenancy? There are different answers depending on whether it is a landlord or a tenant who commits a breach.

## B. What Is a Breach?

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[287] The *Residential Tenancies Act* includes rules that every tenant and every landlord must follow. Sections 16 and 21 list key rules, or covenants, that are part of every residential tenancy agreement. These two sections have been part of the legislation since 1979, reflecting recommendations in ALRI's 1977 report.<sup>181</sup> A failure to follow these rules is a breach.

[288] Some other rules are found elsewhere in the *Residential Tenancies Act*.<sup>182</sup> A failure to follow these rules may also be a breach.

[289] Landlords and tenants may include other rules or obligations in a residential tenancy agreement. An agreement might clarify or provide more details about how to comply with the covenants in legislation.<sup>183</sup> It can also add

<sup>181</sup> *The Landlord and Tenant Act, 1979*, note 22, ss 14, 16; *Residential Tenancies 1977* at 19-42. There has been only one change to these two sections since 1979. In 2004, one of the landlord's covenants was modified to require that the premises meet minimum standards throughout the tenancy. It is now *Residential Tenancies Act*, s 16(c).

<sup>182</sup> See eg *Residential Tenancies Act*, ss 17, 18, 23, 24.

<sup>183</sup> See *Residential Tenancies Act: Before and During a Tenancy* at paras 296-297. For example, one of the tenant's covenants is "that the tenant will not do or permit significant damage" to the home: *Residential Tenancies Act*, s 21(e). A residential tenancy agreement might provide details about specific things a tenant should do to avoid damage, like putting a shower curtain inside the tub or enclosure whenever the shower is running to prevent water damage.

obligations that are not addressed in the legislation. A failure to live up to obligations in a residential tenancy agreement may be a breach.

## 1. WHEN CAN A TENANT TERMINATE A TENANCY FOR BREACH?

[290] Section 16 has rules landlords must follow:<sup>184</sup>

16 The following covenants of the landlord form part of every residential tenancy agreement:

(a) that the premises will be available for occupation by the tenant at the beginning of the tenancy;

(b) that, subject to section 23, neither the landlord nor a person having a claim to the premises under the landlord will in any significant manner disturb the tenant's possession or peaceful enjoyment of the premises;

(c) that the premises will meet at least the minimum standards prescribed for housing premises under the *Public Health Act* and regulations.

[291] There are two sections of the *Residential Tenancies Act* that describe when and how a tenancy may be terminated for a landlord's breach.

[292] Section 28 says a tenant may terminate a tenancy if "the landlord commits a substantial breach of the residential tenancy agreement."<sup>185</sup> Substantial breach in this section has a specific meaning. A landlord commits a substantial breach if the home does not meet the *Minimum Housing and Health Standards* adopted under the *Public Health Act*.<sup>186</sup> As discussed in the next chapter, there are other criteria that must be met to terminate a tenancy under this section.<sup>187</sup>

[293] Section 37(1) says a court or RTDRS may terminate a tenancy if a landlord commits a "breach of a residential tenancy agreement or contravenes this Act"

<sup>184</sup> *Residential Tenancies Act*, s 16.

<sup>185</sup> *Residential Tenancies Act*, s 28(1)(a).

<sup>186</sup> *Residential Tenancies Act*, ss 1(1)(p), 16(c). See also *Public Health Act*, RSA 2000, c P-37, ss 1(1)(ii)(viii), 66(1)(ff) [*Public Health Act*]; *Housing Regulation*, Alta Reg 173/1999; Alberta Health, *Minimum Housing and Health Standards*, MO 57/2012, online: <[open.alberta.ca/dataset/2eac3fa0-43c5-4e4d-9a25-fd0a7bf96293/resource/4d3c2c51-43f1-4d85-b47c-cf92d1cad9c5/download/standards-housing-minimum.pdf](http://open.alberta.ca/dataset/2eac3fa0-43c5-4e4d-9a25-fd0a7bf96293/resource/4d3c2c51-43f1-4d85-b47c-cf92d1cad9c5/download/standards-housing-minimum.pdf)> [perma.cc/S5XV-3QEC].

<sup>187</sup> See Chapter 8 at paras [350]-[355].

but only “if in the opinion of the court the breach or contravention is of such significance that the tenancy should be terminated.”<sup>188</sup>

## 2. WHEN CAN A LANDLORD TERMINATE A TENANCY FOR BREACH?

[294] Section 21 has rules tenants must follow:<sup>189</sup>

21 The following covenants of the tenant form part of every residential tenancy agreement:

- (a) that the rent will be paid when due;
- (b) that the tenant will not in any significant manner interfere with the rights of either the landlord or other tenants in the premises, the common areas or the property of which they form a part;
- (c) that the tenant will not perform illegal acts or carry on an illegal trade, business or occupation in the premises, the common areas or the property of which they form a part;
- (d) that the tenant will not endanger persons or property in the premises, the common areas or the property of which they form a part;
- (e) that the tenant will not do or permit significant damage to the premises, the common areas or the property of which they form a part;
- (f) that the tenant will maintain the premises and any property rented with it in a reasonably clean condition;
- (g) that the tenant will vacate the premises at the expiration or termination of the tenancy.

[295] There are three sections of the *Residential Tenancies Act* describing when and how a tenancy may be terminated for a tenant’s breach.<sup>190</sup>

[296] Two sections use similar language. Sections 26 and 29 say a tenancy may be terminated if a tenant commits “a substantial breach”.<sup>191</sup>

<sup>188</sup> *Residential Tenancies Act*, s 37(1)(d). Although the section only mentions a court, other parts of the legislation say that RTDRS may also deal with these kinds of applications: *Residential Tenancies Act*, s 54.5; *Residential Tenancy Dispute Resolution Service Regulation*, Alta Reg 98/2006, s 15(4).

<sup>189</sup> *Residential Tenancies Act*, s 21.

<sup>190</sup> The three sections also have different processes for terminating a tenancy: see Chapter 8 at paras [371]-[385].

<sup>191</sup> *Residential Tenancies Act*, ss 26(1)(c), 29(1).

[297] Section 30 provides an accelerated process for terminating a tenancy if a tenant commits certain serious breaches. Instead of using words like breach or substantial breach, it describes specific acts that may be a reason to terminate a tenancy under this section:<sup>192</sup>

30(1) Notwithstanding section 29, if a tenant has

(a) done or permitted significant damage to the residential premises, the common areas or the property of which they form a part, or

(b) physically assaulted or threatened to physically assault the landlord or another tenant,

the landlord may apply to a court to terminate the tenancy or may terminate the tenancy by serving the tenant with a notice at least 24 hours before the time that the tenancy is to terminate.

[298] We heard very few concerns about the covenants in the legislation. Most participants seemed to agree that landlords and tenants should have to follow these rules.

[299] Rather, the difficulty is about interpreting and applying them. It is not always easy to know if a landlord or tenant has committed a breach or whether it is serious enough to end the tenancy.

## **C. How Does the Legislation Define Breaches?**

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[300] A small but important problem is about the words used in the legislation and their definitions.

### **1. DIFFERENT WORDS**

[301] There are different ways of describing breaches. The legislation uses different words, like breach, substantial breach, and contravention.<sup>193</sup>

<sup>192</sup> *Residential Tenancies Act*, s 30(1).

<sup>193</sup> *Residential Tenancies Act*, ss 26, 28, 29, 37.

## 2. TWO DEFINITIONS OF “SUBSTANTIAL BREACH”

[302] Adding to the difficulty, the phrase “substantial breach” means two different things. The definition depends on who commits the breach. Section 1(1)(p) says:<sup>194</sup>

(p) “substantial breach” means

(i) on the part of a tenant, a breach of a covenant specified in section 21 or a series of breaches of a residential tenancy agreement, the cumulative effect of which is substantial, and

(ii) on the part of a landlord, a breach of a covenant specified in section 16(c);

[303] Substantial breach has a very broad meaning when a tenant is responsible. Nearly any breach could be a substantial breach.

[304] In contrast, it has a very narrow meaning when a landlord is responsible. Only one thing can be a substantial breach: failing to ensure the home meets the minimum standards in *Minimum Housing and Health Standards*.<sup>195</sup>

[305] Using the same phrase to mean different things adds to the complexity of the legislation, making it harder for readers to understand.

## 3. DIFFERENT WAYS TO DESCRIBE BREACHES THAT JUSTIFY TERMINATING A TENANCY

[306] There are different ways of describing breaches that may justify termination, depending on who commits the breach.

[307] If a landlord commits a breach, a court or RTDRS may terminate the tenancy “if in the opinion of the court the breach or contravention is of such significance that the tenancy should be terminated.”<sup>196</sup>

<sup>194</sup> *Residential Tenancies Act*, s 1(1)(p). The two parts of the definition were added to the legislation at different times. Section 1(1)(p)(i) dates back to 1979: see *The Landlord and Tenant Act, 1979*, note 22, s 1(i). Section 1(1)(p)(ii) was added in 2004 when the Legislature adopted a new version of the *Residential Tenancies Act*. Among other things, the new version introduced special rules allowing a tenant to terminate a tenancy if the home did not meet minimum standards: Bill 16, *Residential Tenancies Act*, 4th Sess, 25th Leg, Alberta, 2004.

<sup>195</sup> See para [292] and note 186 about the meaning of substantial breach.

<sup>196</sup> *Residential Tenancies Act*, s 37(1)(d). See also note 188, which explains why either courts or RTDRS may deal with these applications.

[308] If a tenant commits a breach, a court or RTDRS may terminate a tenancy “where the breach is a substantial breach.”<sup>197</sup>

[309] It is unclear why the two sections are worded differently and whether “a substantial breach” means something different than a “breach or contravention ... of such significance that the tenancy should be terminated.”<sup>198</sup>

## ISSUE 14

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How could definitions or descriptions of breaches that justify terminating a tenancy be simplified and made more consistent?

### D. Is the Problem a Breach?

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[310] A person trying to apply the legislation has to use their judgment, often at two separate steps. The first step requires them to determine if a particular problem is a breach.

#### 1. WHAT DOES THE LEGISLATION MEAN?

[311] It can be difficult to interpret or apply the covenants in the legislation. Phrases like “significant manner,” “significant damage,” and “reasonably clean” cannot be precisely quantified.<sup>199</sup> Ones like “perform illegal acts or carry on an illegal trade, business, or occupation” could mean different things. For example, a landlord might be unsure if it is a breach for a tenant to violate a municipal bylaw.<sup>200</sup>

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<sup>197</sup> *Residential Tenancies Act*, s 26(1)(c).

<sup>198</sup> The wording of these two sections can be traced back to 1979: see *The Landlord and Tenant Act, 1979*, note 22, ss 20(e), 29(d). These sections departed from the recommendations in ALRI’s 1977 report: see *Residential Tenancies 1977* at 53-55, 63-68, 157-162. We have not found any information about why this part of the legislation did not reflect ALRI’s recommendations.

<sup>199</sup> See Jonnette Watson Hamilton, “Landlords, Tenants, and Domestic Violence: Landlord’s Power to Terminate Residential Tenancies for Acts of Domestic Violence (and an Argument for Publicly-Accessible RTDRS Reasons for Decisions)” (8 September 2017), online: *ABLawg* <[ablawg.ca/2017/09/08/landlords-tenants-and-domestic-violence-landlords-power-to-terminate-residential-tenancies-for-acts-of-domestic-violence-and-an-argument-for-publicly-accessible-rtdrs-reasons-for-decision/](http://ablawg.ca/2017/09/08/landlords-tenants-and-domestic-violence-landlords-power-to-terminate-residential-tenancies-for-acts-of-domestic-violence-and-an-argument-for-publicly-accessible-rtdrs-reasons-for-decision/)> [perma.cc/LA4A-5MLJ]:

What interference and damage amounts to “significant” interference or damage? Because significance is a matter of degree, there is uncertainty in all but the most egregious cases about whether conduct has reached that point. However, it is difficult to say how this provision could be made more certain; any synonym for “significant” will be as uncertain because words such as significant or substantial or major or considerable describe the degree of interference or damage.

<sup>200</sup> See eg *Re 19000958*, 2019 ABRTDRS 31.

[312] Some other Canadian jurisdictions have legislation with more detailed lists about the kinds of breaches that justify terminating a tenancy, although they also tend to be subjective.<sup>201</sup>

## 2. DOES A RESIDENTIAL TENANCY AGREEMENT MAKE A DIFFERENCE?

[313] Making things more complicated, the terms of a residential tenancy agreement might make a difference. Something could be a breach under one agreement but not another. Some residential tenancy agreements forbid smoking in the home, although others might allow it. Case law suggests a landlord can terminate a tenancy for smoking if the agreement forbids it.<sup>202</sup> Some, but not all, residential tenancy agreements require tenants to have insurance or provide proof of insurance to the landlord. There are cases where landlords have tried to terminate a tenancy because a tenant did not provide proof of insurance, although we are not aware of any where the landlord succeeded.<sup>203</sup>

## 3. WHAT PROOF IS REQUIRED?

[314] There may also be uncertainty about how to prove a breach occurred. A good illustration of the problem is about termination for an illegal act.

[315] If a landlord believes a tenant committed an illegal act in the home, they may want to terminate the tenancy quickly. They may be worried about their safety, the safety of other tenants, damage to the home, or other harm. It can take months for criminal charges to be resolved. It would be unreasonable if a landlord had to wait for tenant to be convicted before they could terminate a tenancy.

[316] If the tenant has not been convicted of a crime, however, how can a landlord prove that they committed an illegal act? The *Residential Tenancies Act* does not say. Case law does not provide clear guidance either. Some cases suggest significant evidence is required but it is difficult to know how courts or RTDRS apply this principle in practice.<sup>204</sup> In consultation, we heard concerns that

<sup>201</sup> See eg BC Act, note 134, ss 46, 47; Saskatchewan Act, note 41, s 58.

<sup>202</sup> See eg *Greater Edmonton Foundation v Hetland*, 2017 ABQB 430; *Re 23013546*, 2023 ABRTDRS 31.

<sup>203</sup> See eg *Re 20005321*, 2020 ABRTDRS 20; *Re 20001688*, 2022 ABRTDRS 4; *Re 23010532*, 2024 ABRTDRS 9.

<sup>204</sup> See eg *Parkbridge Lifestyles Communities Inc. (Parkland Village) v Vanderhaak*, 2011 ABQB 402. Researchers in other jurisdictions have analyzed cases to see how tribunals actually decide these cases: see Sarah Buhler, “Crim-eviction: Eviction and Social Control at a Residential Tenancies Tribunal” (2025) 62:1 Osgoode Hall LJ 109. This kind of research would be nearly impossible in Alberta given the small number of published RTDRS decisions.

some landlords may believe a tenant has committed illegal acts based on minimal evidence or they may exaggerate claims about illegal activity when seeking to terminate a tenancy.<sup>205</sup>

## E. Does the Breach Justify Termination?

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[317] If there is a breach, the second step is to determine if it is one that justifies terminating a tenancy. Even if it is clear that a landlord or tenant has committed a breach, it can be difficult to know if it is a reason to terminate a tenancy.

[318] The legislation provides limited guidance about the kinds of breaches that justify terminating a tenancy. Others have pointed out that phrases like a “breach or contravention ... of such significance that the tenancy should be terminated” or “a series of breaches ... the cumulative effect of which is substantial” are difficult to understand or apply.<sup>206</sup>

[319] For example, a landlord might want to know when they can terminate the tenancy of a tenant who has not paid rent on time. Any late payment is a breach but courts and RTDRS have said that is not enough. They will not allow a landlord to terminate a tenancy just because the tenant is a few days late paying rent.<sup>207</sup> A landlord might ask how long they must wait. When does late rent become a substantial breach? How many days or weeks does it take? When can they terminate the tenancy?

<sup>205</sup> See eg *Re 22002911*, 2022 ABRTDRS 13. The landlord said the tenant had “dozens of bikes being stripped in the backyard” and an RCMP officer had said the tenant’s home was a “den of crime”. The tenancy dispute officer found that the backyard had some clutter but the landlord’s allegations of criminal activity were speculative. See also *Re 19007181*, 2020 ABRTDRS 17; *Re 19000958*, 2019 ABRTDRS 31; *Re 20005321*, 2020 ABRTDRS 20.

<sup>206</sup> *Achieving a Balance* at 98.

<sup>207</sup> See eg *Re 20006437*, 2020 ABRTDRS 27:

Rent was a few days late in June and July. Failing to pay rent when due is a substantial breach of the tenancy agreement, but it is not always a significant enough breach to warrant terminating the tenancy. Even in the best of times, rent being late a few days will probably not be sufficient grounds to terminate a tenancy.

*Re 22002911*, 2022 ABRTDRS 13:

Clearly, the RTA contemplates that the mere fact that rent is late for a few days, though a substantial breach, will not be the basis to terminate a tenancy.

*Re 25015269*, 2026 ABRTDRS 3:

... **evidence of habitual late payments is required.** One late payment, remedied immediately, is insufficient.

See also 416566 *Alberta Ltd. v Fothergill*, 2017 ABPC 96 at paras 25-33. The case was about a mobile home site tenancy so the applicable legislation was the *Mobile Home Sites Tenancies Act*, RSA 2000, c M-20 rather than the *Residential Tenancies Act*. The general principles in the case could apply to either one and have been followed in cases applying the *Residential Tenancies Act*.

[320] Lawyers or other legal professionals would usually look for answers in case law. Written decisions from courts or RTDRS might say how they interpret the legislation and provide examples of things that were or were not substantial breaches.<sup>208</sup> In this context, there are a few challenges with using case law.

[321] First, from our consultation and research, we know that landlords and tenants often deal with residential tenancy issues on their own, without legal help.<sup>209</sup> People without legal training may not know that they can use case law to interpret legislation, let alone how to find case law.<sup>210</sup>

[322] Second, there is a limited amount of case law available. Courts occasionally issue written decisions about residential tenancy issues but often just a handful per year.<sup>211</sup> RTDRS began publishing some written decisions in 2019.<sup>212</sup> RTDRS decisions are available on CanLII, a website that provides free, online access to court and tribunal decisions. At the time of writing, there are 255 RTDRS decisions available.<sup>213</sup> Only a subset of those decisions will be relevant to a person looking for guidance on specific issue, like late rent.

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<sup>208</sup> See Jonnette Watson Hamilton, "Landlords, Tenants, and Domestic Violence: Landlord's Power to Terminate Residential Tenancies for Acts of Domestic Violence (and an Argument for Publicly-Accessible RTDRS Reasons for Decisions)" (8 September 2017), online: *ABLawg* <[ablawg.ca/2017/09/08/landlords-tenants-and-domestic-violence-landlords-power-to-terminate-residential-tenancies-for-acts-of-domestic-violence-and-an-argument-for-publicly-accessible-rtdrs-reasons-for-decision/](http://ablawg.ca/2017/09/08/landlords-tenants-and-domestic-violence-landlords-power-to-terminate-residential-tenancies-for-acts-of-domestic-violence-and-an-argument-for-publicly-accessible-rtdrs-reasons-for-decision/)> [perma.cc/LA4A-5MLJ]:

The only practical way to reduce this type of uncertainty is to provide a lot of examples of situations that did and did not amount to "significant" interference or damage.

<sup>209</sup> See also Residential Tenancy Dispute Resolution Service (Alberta), *RTDRS Annual Report: The Fourth Edition Annual Report for Alberta's Residential Tenancy Dispute Resolution Service* (2024) at 9, online: <[open.alberta.ca/dataset/01e0066a-c12f-4278-bfc4-2c807d50304d/resource/3cf2fc06-9c6a-4004-a4fa-c39955f09fed/download/sartr-rtdrs-annual-report-2023-2024.pdf](http://open.alberta.ca/dataset/01e0066a-c12f-4278-bfc4-2c807d50304d/resource/3cf2fc06-9c6a-4004-a4fa-c39955f09fed/download/sartr-rtdrs-annual-report-2023-2024.pdf)> [perma.cc/2XLA-ZGR3] [*RTDRS Annual Report* 4th ed]. ALRI discussed some of the challenges for people dealing with residential tenancy issues on their own in another report in this series: *Residential Tenancies Act: General Issues* at paras 194-195, 225-226.

<sup>210</sup> See Jonnette Watson Hamilton, "Street v Mountford Applied to Decide: A Residential Tenancy Agreement or a Licence?" (13 January 2017), online : *ABLawg* <[ablawg.ca/2017/01/13/street-v-mountford-applied-to-decide-a-residential-tenancy-agreement-or-a-licence/](http://ablawg.ca/2017/01/13/street-v-mountford-applied-to-decide-a-residential-tenancy-agreement-or-a-licence/)> [perma.cc/BK278N5K].

<sup>211</sup> Alberta courts do not publish statistics about types of cases, so we do not know how many court applications or hearings are about residential tenancy matters.

<sup>212</sup> Residential Tenancy Dispute Resolution Service (Alberta), *RTDRS Annual Report: The First Edition Annual Report for Alberta's Residential Tenancy Dispute Resolution Service* (2021) at 11, online: <[open.alberta.ca/dataset/01e0066a-c12f-4278-bfc4-2c807d50304d/resource/f892ad24-5e01-4276-b2f4-c01df566b02a/download/sa-rtdrs-annual-report-2020-2021.pdf](http://open.alberta.ca/dataset/01e0066a-c12f-4278-bfc4-2c807d50304d/resource/f892ad24-5e01-4276-b2f4-c01df566b02a/download/sa-rtdrs-annual-report-2020-2021.pdf)> [perma.cc/FYZ7-FP6P].

<sup>213</sup> Published decisions are accessible in the Alberta Residential Tenancy Dispute Resolution Service (ABRTDRS) database, located at the Canadian Legal Information Institute (CanLII), online: <[canlii.org/ab/abrtdrs](http://canlii.org/ab/abrtdrs)>. The published decisions are a tiny fraction of RTDRS decisions. According to the most recent RTDRS annual report, from April 2023 to March 2024 it conducted 16,939 hearings: *RTDRS Annual Report* 4th ed, note 209 at 7. For the same period, there are 36 published RTDRS decisions available on CanLII.

[323] Third, it can be hard to find clear answers from case law, especially when the facts are complex. Cases about terminating a tenancy often involve allegations of several breaches. It can be difficult to isolate one factor, like late rent, when a decision involves a combination of factors. In our consultation, one participant pointed out that disputes or problems are rarely about one thing. It is unlikely that a case will reach a hearing at court or RTDRS if everyone behaved perfectly except for one breach. It is more likely that a landlord or tenant decides to terminate a tenancy after a series of problems. The decision to terminate a tenancy is often about a pattern or accumulation of breaches, even if a particular breach is the last straw.

[324] Finally, courts and RTDRS make decisions on a case-by-case basis, considering all the circumstances. As one judge wrote, a court deciding whether to terminate a tenancy because of a breach “should consider the nature, duration, extent, and severity of the breaches; the nature of the premises involved; and the parties’ reasonable expectations.”<sup>214</sup> If the breach is late rent, the court should consider: “the amount overdue, its duration, the severity of the breach, and overall, whether the impact of the breach represents a significant interference with or impact upon the landlord’s entitlements under the tenancy agreement.”<sup>215</sup> Even if two situations are very similar, there is no guarantee that the results would be the same. Published RTDRS decisions include this statement to this effect: “Decisions of RTDRS Tenancy Dispute Officers are specific to the facts of each case and are not binding precedents.”

[325] As each case is decided on its own facts, it is hard for tenants or landlords to know if a breach is serious enough to terminate the tenancy. If they apply to a court or RTDRS, it can be difficult to predict the result.

## **ISSUE 15**

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Should legislation include more guidance about when a landlord or tenant may terminate a tenancy for breach?

<sup>214</sup> 416566 *Alberta Ltd. v Fothergill*, 2017 ABPC 96 at para 32.

<sup>215</sup> 416566 *Alberta Ltd. v Fothergill*, 2017 ABPC 96 at para 28.

## **F. Does It Matter Who Commits a Breach or a Wrongful Act?**

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[326] The *Residential Tenancies Act* does not say whether a tenancy may be terminated if a person other than the landlord or tenant commits a wrongful act. The question comes up in two scenarios.

[327] One is where someone associated with a tenant commits a wrongful act. It could be a person who lives with the tenant, a guest, or a visitor. May a landlord hold the tenant responsible for the other person's act and terminate the tenancy?

[328] The other is where another tenant of the landlord commits wrongful acts. A neighbour's behaviour may have a significant impact on a tenant. Can a tenant terminate a tenancy if their problem is with a neighbour, rather than the landlord?

### **1. MAY A LANDLORD TERMINATE A TENANCY IF THE TENANT DID NOT COMMIT THE WRONGFUL ACT?**

[329] Most of the covenants in section 21 of the *Residential Tenancies Act* say what a tenant must do or must not do. None of them explicitly mention other people. Only one, section 21(e), suggests that a tenant might be responsible for something a tenant did not do directly. It says a tenant must not "do or permit significant damage" to the home.<sup>216</sup>

[330] Although the *Residential Tenancies Act* does not say so clearly, it seems many landlords assume tenants are responsible for the behaviour of anyone in their home. Some written residential tenancy agreements say that tenants are responsible for the behaviour of guests or visitors.

[331] Case law does not clearly say whether a landlord can terminate a tenancy if someone other than a tenant causes a problem.

[332] In some cases, courts have found that a tenant is not responsible for someone else's wrongful act. In *Fairmont Hotels v Zwir*, the tenant was an employee living in staff housing provided by her employer.<sup>217</sup> The residential tenancy agreement included rules saying there was a zero tolerance policy for possession or use of illegal drugs. The tenant's cousin was visiting and security

<sup>216</sup> *Residential Tenancies Act*, s 21(e).

<sup>217</sup> *Fairmont Hotels v Zwir*, 2007 ABPC 107. See also *Parkbridge Lifestyle Communities Inc. (Parkland Village) v Vanderhaak*, 2011 ABQB 402 at para 9. The court dismissed an application to terminate a tenancy after a tenant was charged with drug offences, in part because there was no evidence the other tenant participated in illegal activities.

officers found him smoking marijuana in the tenant's apartment. At the time, marijuana was an illegal drug. The tenant was not in the apartment at the time and there was no evidence that she knew her guest had drugs or was going to use them until after the security officers entered her apartment. When the landlord applied to terminate her tenancy, the court dismissed the application. The court said that a tenant must not perform illegal acts but "in these circumstances where the tenant neither knew nor authorized the illegal activity, it is not likely the tenant did anything illegal."<sup>218</sup>

[333] In contrast, some RTDRS decisions say that tenants are responsible for another person's action if they allowed the person into their home. In *Re 23010085*, a 2023 RTDRS case, a tenancy dispute officer wrote:<sup>219</sup>

The *RTA* says nothing explicitly about damage done or permitted by guests of a tenant or by individuals known to a tenant.

Notwithstanding the lack of explicitness in the *RTA*, the Residential Tenancy Dispute Resolution Service takes the position that tenants are liable for damage to a rental premises caused by their invited guests. Although there is apparently no reported case law from Alberta's courts that explicitly states this interpretation of section 21(e) of the *RTA*, this position seems uncontroversial. If a Tenant invites a person into the rental premises and that person does damage, it can be said that the Tenant has "done or permitted" damage by inviting the guest.

[334] Holding a tenant responsible for the acts of family members or guests may have unexpected effects. Researchers in other jurisdictions have found that termination for illegal acts affects men and women differently. One study of cases in Toronto and New York found few women were alleged to have committed illegal acts personally but many faced termination of a tenancy because of something another person had done. The author concluded that termination for illegal acts has "disproportionate impacts on low-income women."<sup>220</sup>

<sup>218</sup> *Fairmont Hotels v Zwir*, 2007 ABPC 107 at para 16.

<sup>219</sup> *Re 23010085*, 2023 ABRTDRS 22. See also *Re 23013798*, 2023 ABRTDRS 32: "The Tenants' allegation that the fire was caused by the negligence of a guest is immaterial. The Tenants are responsible and liable for the actions of their invited guests."

<sup>220</sup> Leora Smith, "The Gendered Impact of Illegal Act Eviction Laws" (2017) 52:2 Harv CR-CL L Rev 537 at 555; see also Sarah Buhler, "Crim-eviction: Eviction and Social Control at a Residential Tenancies Tribunal" (2025) 62:1 Osgoode Hall LJ 109 at 141-143.

## 2. MAY A TENANT TERMINATE A TENANCY IF THE LANDLORD DID NOT COMMIT THE WRONGFUL ACT?

[335] The *Residential Tenancies Act* says almost nothing about a landlord's responsibility to prevent or resolve problems between their tenants.

[336] One of a landlord's covenants is that "neither the landlord nor a person having a claim to the premises under the landlord will in any significant manner disturb the tenant's ... peaceful enjoyment of the premises."<sup>221</sup> The wording of this covenant is very broad. It is not easy to interpret or apply it.

[337] It is especially difficult to say how this covenant might apply to problems between two different tenants. On the one hand, a landlord is not directly responsible for what their tenants do. A landlord cannot control another person's actions. On the other hand, landlords have some power to prevent and avoid problems. They can communicate expectations and set rules for tenants. If a tenant breaks rules, a landlord may be able to seek a remedy against the tenant. In serious cases, a landlord may be able to terminate a tenancy because of the tenant's rule-breaking. Further, the landlord has more power than other tenants to influence the behaviour of a tenant or enforce rules. The *Residential Tenancies Act* does not allow other tenants to seek remedies against a tenant who causes a problem. They cannot terminate a tenancy; only the landlord can.

[338] Some problems between tenants are common issues that occur when people live in close proximity, like different expectations about noise. One tenant might want to play music at home; another might think it is too noisy. Tenants may have problems about smoking, smells, use of common areas, and other things. Landlords often end up in the middle of these conflicts.

[339] Case law suggests that another tenant living in a separate home is usually not "a person having a claim to the premises under the landlord."<sup>222</sup> A tenant cannot terminate a tenancy just because another tenant causes a problem. However, a landlord should take reasonable steps to deal with a problem. A

<sup>221</sup> *Residential Tenancies Act*, s 16(b).

<sup>222</sup> See *Midwest Property Management v Moore*, 2003 ABQB 581 at paras 18, 21:

Whether the covenant [for peaceful enjoyment] has been breached is a question of fact and accordingly depends upon the facts of each particular case. The Applicant must establish on a balance of probabilities that the Respondent intentionally and substantially acted in such a way as to deprive the Applicant of her enjoyment of the Premises.

...

The Applicant also complains of the actions of other tenants. A landlord is not responsible for the actions of its other tenants unless the landlord has caused the tenants to interfere with another tenant's peaceful enjoyment, or has assumed such responsibility. ...

See also *Re 20003025*, 2020 ABRTDRS 26; *Re 25007474*, 2025 ABRTDRS 13; *Re 25012657*, 2025 ABRTDRS 18.

tenant might have a remedy against a landlord who ignores another tenant's bad behaviour.<sup>223</sup>

[340] As long as the landlord is taking reasonable steps, however, there is little a tenant can do. If it continues and they cannot live with the problem, the best solution may be to move. If they have a periodic tenancy, they could end it by giving the landlord notice. If they have a fixed term tenancy, they could wait until the end date or they might consider using a practical option to end it earlier.

[341] Sometimes there are more serious problems between tenants. There were a handful of examples of very serious problems in the Reddit data, including descriptions of tenants stalking other tenants, entering or trying to enter their home, damaging their property, making threats, and physically attacking them.<sup>224</sup> No matter what a landlord does, a victim may not feel safe remaining in the home. Even if the landlord takes the situation very seriously and terminates the aggressor's tenancy, it may take some time before the aggressor is gone.<sup>225</sup> A victim may want to move in any case. An aggressor who has been evicted still knows where the victim lives. A victim may not want to stay in a place where they experienced trauma. Even if the landlord does everything right, a victim may want to end the tenancy.

[342] The *Residential Tenancies Act* does not address this situation directly. A tenant who is experiencing a serious problem with a neighbour may have options to end a tenancy, like making an agreement with the landlord or giving notice to end a periodic tenancy. They could leave the home and deal with financial consequences later. It might be better, however, if the legislation had more specific rules for this situation.

[343] Legislation could provide more guidance about dealing with wrongful acts by third parties. Questions to address might include:

- Are tenants responsible for the wrongful acts of people who live with them, their guests, or other visitors?

<sup>223</sup> See eg *Re 22007223*, 2022 ABRTDRS 25. See also *Peter v Sanchez*, 2025 ABKB 514 at para 72. The tenant rented a single room in a house. There was no door between the tenant's room and a common area shared with other tenants. Another tenant repeatedly entered the tenant's room while drunk. The court said this behaviour disturbed the tenant's security and privacy and that the landlord could be held responsible. The court did not say whether the landlord was responsible because he did not provide a door, because he did not intervene with the other tenant, or for some other reason.

<sup>224</sup> There were also examples of similarly serious problems with landlords: see Chapter 8 at paras [416]-[418].

<sup>225</sup> See Chapter 8 at paras [387]-[393], [406]-[407].

- May a landlord terminate a tenancy because of a wrongful act by someone associated with a tenant, even if the tenant was innocent?
- What responsibility does a landlord have to intervene in problems between tenants?
- Should a tenant be able to end a tenancy if someone other than the landlord disturbs their peaceful enjoyment of the premises or endangers the tenant?

### **ISSUE 16**

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How could legislation clarify if and how a tenancy may be terminated for actions by people other than a landlord or tenant?



## CHAPTER 8

# Termination for Breach: How to Terminate a Tenancy

## A. Terminating a Tenancy for Breach

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[344] This chapter is about how to terminate a tenancy for breach. There are several ways to do it, with different options depending on whether it is the tenant or the landlord trying to terminate the tenancy.

[345] The issues we discuss in this chapter are about the legislation. In consultation we heard many concerns about the process of termination and how dispute resolution works. For example, some participants mentioned concerns about the time between making an application and getting an order, or issues about how RTDRS hearings are conducted. These issues are about procedures and operations. It is unlikely that they could be resolved by legislation. While they are important issues, they are not the focus of this report.

## B. How Can a Tenant Terminate a Tenancy for Breach?

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[346] There are two ways a tenant can terminate a tenancy for a landlord's breach. The options depend on the type of breach.

### 1. APPLICATION TO COURT OR RTDRS

[347] In most cases, a tenant who wants to terminate a tenancy for breach has to apply to a court or RTDRS. Section 37(1) of the *Residential Tenancies Act* says what a tenant may do if they believe a landlord has not fulfilled their obligations:<sup>226</sup>

37(1) If a landlord commits a breach of a residential tenancy agreement or contravenes this Act, the tenant may apply to a court for one or more of the following remedies:

...

(d) termination of the tenancy by reason of the breach or contravention if in the opinion of the court the breach or

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<sup>226</sup> *Residential Tenancies Act*, s 37(1)(d). See also note 188, which explains why either courts or RTDRS may deal with these applications.

contravention is of such significance that the tenancy should be terminated.

[348] After considering the evidence, a court or RTDRS can decide if the landlord committed a breach and if so, whether the tenancy should be terminated.

[349] Each case depends on its own facts. A tenant cannot be sure that a court or tribunal will agree that the breach is serious enough to justify termination. Some reported cases suggest that the standard is a high one, describing termination as “a remedy of last resort” or “only available in cases of very serious breaches by the Landlord.”<sup>227</sup>

## 2. TERMINATION BY NOTICE IF THE HOME DOES NOT MEET MINIMUM STANDARDS

[350] There are special rules allowing a tenant to terminate a tenancy if the home does not meet minimum standards.

[351] A landlord must ensure a rented home meets the minimum standards in the *Minimum Housing and Health Standards* adopted under the *Public Health Act*.<sup>228</sup> This obligation is part of every residential tenancy agreement.<sup>229</sup>

[352] If the landlord does not fulfill this obligation, a tenant can use the special rules to terminate the tenancy but there are specific conditions to meet. Section 28(1) sets out the conditions:<sup>230</sup>

28(1) A tenant may apply to a court to terminate the tenancy or may terminate the tenancy by serving the landlord with a notice at least 14 days before the day that the tenancy is to terminate where

<sup>227</sup> *Re 19010318*, 2020 ABRTDRS 4; *Re 19010580*, 2020 ABRTDRS 3. See also *Boardwalk Rental Communities v Ravine*, 2009 ABQB 534 at para 21; *C.V. Benefits Inc. v Angus*, 2017 ABPC 118 at paras 30-32; *Re 21000578*, 2021 ABRTDRS 2; *Re 19005300*, 2019 ABRTDRS 18.

<sup>228</sup> See *Residential Tenancies Act*, ss 1(1)(p)(ii), 16(c), see also note 186.

<sup>229</sup> *Residential Tenancies Act*, s 16:

16 The following covenants of the landlord form part of every residential tenancy agreement:

...

(c) that the premises will meet at least the minimum standards prescribed for housing premises under the *Public Health Act* and regulations.

The obligation applies whether or not the landlord and tenant discuss it or specifically agree to it. It is not possible for a landlord and tenant to make an agreement without this obligation, as such an agreement would be void: see *Residential Tenancies Act*, s 3(1); see also *C.V. Benefits Inc. v Angus*, 2017 ABPC 118 at paras 44-45.

<sup>230</sup> *Residential Tenancies Act*, s 28(1). See also para [292] and note 186 about the meaning of substantial breach.

(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.

[353] In other words, before a tenant can terminate a tenancy for this reason at least three things must occur:

- the home does not meet the minimum standards,
- a public health inspector makes an order requiring the landlord to correct the problem, and
- the landlord disobeys or ignores the order.

[354] There is one other detail to note. After the tenant delivers the notice, the landlord has a final opportunity to avoid termination. Section 28(3) says:

28(3) A notice to terminate under this section is ineffective if

(a) within 7 days from the date the landlord receives the notice, the landlord serves the tenant with a notice in writing objecting to the termination on the grounds that the landlord has complied with the order under the *Public Health Act* or has been granted a stay of the order, and

(b) at the time of serving the notice of objection the landlord has complied with the order or has been granted a stay of the order.

[355] To avoid termination, the landlord may do one of two things. Either they can comply with the order by completing the required repairs or they can start a legal process to appeal the order and request a stay. A stay means the order is suspended until the appeal is resolved. If the landlord complies with the order or a court or tribunal grants a stay, the landlord can give the tenant a notice objecting to the termination. If they give the tenant that notice within seven days after receiving the tenant's notice, the tenancy will continue.

### **C. Issues: When a Tenant Initiates Termination for Breach**

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[356] For a tenant, the main benefit of terminating a tenancy for breach is financial. A tenant may move out whether or not they terminate a tenancy. They are responsible for rent, however, until the tenancy ends.

[357] We heard concerns about applying to a court or RTDRS for termination of a tenancy. Most of the concerns were about procedures or operations, which are outside the scope of this report.

[358] There are some specific issues about the special rules to terminate a tenancy if a home does not meet minimum standards. These issues are ones that could be addressed in legislation.

[359] In our consultation and research, we found that issues about maintenance or the condition of homes are among the top concerns for tenants.<sup>231</sup> We found many cases and heard many anecdotes about homes that did not meet the minimum standards.<sup>232</sup>

[360] We also heard it is rare for tenants to use the special rules to terminate a tenancy if a home does not meet the minimum standards. Some participants with a lot of experience working with tenants told us they had never seen a tenant successfully use these rules to terminate a tenancy.

## 1. ENDING A TENANCY AMONG OTHER OPTIONS

[361] For some tenants, ending a tenancy is not their first choice when a home does not meet the minimum standards.<sup>233</sup> A tenant might prefer to remain in the home, but wants to ensure that the landlord completes repairs. As ALRI wrote in an earlier report, the *Residential Tenancies Act* has few options for a tenant if a landlord does not maintain the home or complete repairs. There are no remedies a tenant can seek directly requiring a landlord to address a problem with the condition of a home.<sup>234</sup>

## 2. IS THE PROCESS AS FAST OR EFFECTIVE AS INTENDED?

[362] If a tenant wants to terminate the tenancy, there are several steps they must take. Each step can take some time.

<sup>231</sup> See *Residential Tenancies Act: Before and During a Tenancy* at paras 358-360.

<sup>232</sup> See eg *Perpelitz v Manor Management Ltd.*, 2014 ABPC 63; *C.V. Benefits Inc. v Angus*, 2017 ABPC 118; *Re 21009443*, 2021 ABRTDRS 36; *Re 24000733*, 2024 ABRTDRS 11.

<sup>233</sup> See eg *Perpelitz v Manor Management Ltd.*, 2014 ABPC 63. There were serious problems with leaking water and mold in a home over several months. The tenants told a court they did not terminate the tenancy “because they had no funds available to move to another premise, and they had no other premises ... immediately available to them” (at para 33(bb)).

<sup>234</sup> *Residential Tenancies Act: Before and During a Tenancy* at paras 389-392.

[363] Usually a tenant's first step would be to contact public health authorities.<sup>235</sup> Then the tenant may have to wait. Public health inspectors have many responsibilities and may have to prioritize the most urgent or serious concerns.<sup>236</sup> Unless there is an immediate danger to a tenant, they may not be able to inspect immediately. We heard in consultation that the time between making a complaint and an inspection varies but sometimes it may be weeks.

[364] The next step is an inspection. If the home does not meet the minimum standards, the inspector may make an order requiring the landlord to make repairs or otherwise fix a problem.<sup>237</sup> An order will usually include a deadline for completing the work. Depending on the type of problem and other factors, the deadline could be days, weeks, or more after the inspection. A tenant has to wait until the deadline to see if the landlord will complete the work.

[365] If the landlord does not complete the work required in an order, the tenant can give a notice to the landlord to terminate the tenancy. The notice must include a termination date at least 14 days from the day the tenant gives the landlord notice.

[366] Altogether, terminating a tenancy this way could take weeks or even months.

[367] The special rules are most likely to benefit a tenant if they have a fixed term tenancy. A tenant with a monthly periodic tenancy – the most common kind of periodic tenancy – could end a tenancy at any time by providing at least one month of notice. It would usually be faster than using the special rules.

### 3. THE PROCESS IS UNPREDICTABLE

[368] The process is also unpredictable.

[369] Termination only becomes inevitable if the landlord does not object within seven days after receiving the tenant's notice. It makes it difficult for a tenant to plan. It could be especially risky for a tenant who will rent their next home. If

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<sup>235</sup> At the time of writing, the responsible organization is Alberta Health Services, Environmental Public Health.

<sup>236</sup> Alberta Health Services Environmental Public Health is responsible for compliance with all activities regulated by the *Public Health Act*, note 186, including monitoring and inspecting restaurants and food services, personal care businesses like nail salons or tattooing, childcare facilities, continuing care facilities, pools, and drinking water.

<sup>237</sup> We heard that public health inspectors do not always make orders when they find problems. They may try to promote compliance through education first: see *Residential Tenancies Act: Before and During a Tenancy* at paras 383-385.

they wait until the termination is inevitable, they would have as little as a week to find another place to rent and prepare to move. They risk having no place to go at the end of the tenancy. If they agree to rent another home before the last week of the tenancy, they risk being committed to two tenancies and having to pay rent for two homes.

[370] Even if they follow all the steps to terminate a tenancy, it is possible that a court or RTDRS will find they did not meet all the requirements.<sup>238</sup> They could give a notice, move out of a home, and find another place to live, only to find out after a hearing that they are still responsible for paying rent.

## **ISSUE 17**

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How could the process for terminating a tenancy because the home does not meet minimum standards be streamlined or simplified?

### **D. How Can a Landlord Terminate a Tenancy for Breach?**

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[371] In most situations, a landlord who wants to terminate a tenancy for breach has two options. A third option may be available depending on the kind of breach.

#### **1. APPLICATION TO COURT OR RTDRS**

[372] The first one is similar to what a tenant could do. If a landlord believes a tenant has not fulfilled their obligations, the landlord may apply to a court or RTDRS for an order terminating the tenancy. Section 26 of the *Residential Tenancies Act* describes this option:<sup>239</sup>

26(1) If a tenant commits a breach of a residential tenancy agreement, the landlord may apply to a court for one or more of the following remedies:

...

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<sup>238</sup> See eg *Re 19005300*, 2019 ABRTDRS 18. A public health inspector made an order requiring a landlord to fix an issue. Several days later, when the deadline in the order had passed, the tenant delivered a notice to terminate the tenancy. The landlord did not object in writing or seek a stay of the order. Nonetheless, a tenancy dispute officer found that the tenant “did not have reasonable grounds ... to believe that the Landlord failed to comply with the Alberta Health Services Order.” As the tenancy was not terminated, the tenancy dispute officer found the tenant had repudiated the agreement by moving out. She was responsible to pay rent after moving out.

<sup>239</sup> *Residential Tenancies Act*, s 26(1). See note 188 for an explanation of why they may apply to either a court or RTDRS.

(c) where the breach is a substantial breach, termination of the tenancy;

[373] Other sections also mention that a landlord may apply to a court or RTDRS for an order terminating a tenancy.<sup>240</sup>

## 2. TERMINATION BY NOTICE

[374] The other option is to terminate the tenancy by notice. A landlord can begin this process on their own. They do not need to notify anyone or get approval from a court, RTDRS, or any other authority.

[375] For most substantial breaches, a landlord must follow the process in section 29. It begins:<sup>241</sup>

29(1) If a tenant commits a substantial breach of a residential tenancy agreement, the landlord may apply to a court to terminate the tenancy or may terminate the tenancy by serving the tenant with a notice at least 14 days before the day that the tenancy is to terminate.

[376] The following subsections, 29(2) and 29(3), have requirements about what must be included in the notice.<sup>242</sup> Among other things, it must include the reason for termination and, if the tenant owes rent, the amount they owe. It must also include the termination date, which must be at least 14 days from the day the landlord gives the tenant the notice.

<sup>240</sup> *Residential Tenancies Act*, ss 29, 30.

<sup>241</sup> *Residential Tenancies Act*, s 29(1).

<sup>242</sup> *Residential Tenancies Act*, s 29(2), 29(3):

29(2) The notice must

- (a) be in writing,
- (b) be signed by the landlord or the landlord's agent,
- (c) set out separately
  - (i) the rent due as of the date of the notice, and
  - (ii) any additional rent that may become due during the notice period,
- (d) set out the reasons for the termination, and
- (e) set out the termination date.

(3) Where a landlord terminates a tenancy for non-payment of rent, the notice to terminate must state that the tenancy will not be terminated if, on or before the termination date specified in the notice, the tenant pays the rent due and any additional rent that has become due under the residential tenancy agreement as of the date of payment.

[377] If a tenant leaves by the termination date, the process is complete.<sup>243</sup> The tenancy is over. We heard in consultation that it is common for a tenant to move out after receiving a termination notice.<sup>244</sup>

[378] We do not know how many tenancies end this way. Landlords do not need permission to give a termination notice to a tenant, nor do they need to report to anyone, so there is no way to track the number of notices. Similarly, there is no way to track how often tenants move out after receiving a notice.

[379] If a tenant does not want to leave, there are ways to avoid termination. Section 29(4) says how:<sup>245</sup>

29(4) A notice to terminate under this section is ineffective if, before the termination date given in the notice, the tenant

(a) pays all rent due as of the date of payment, if the alleged breach is a failure to pay rent, or

(b) serves the landlord with a notice in writing objecting to the termination that sets out the tenant's reasons for objecting, if the alleged breach is other than a failure to pay rent.

[380] The way to avoid termination depends on the kind of breach. If the reason for termination is that the tenant has not paid rent, the tenant can avoid termination by paying the amount they owe. If the landlord's termination notice gives any other reason, the tenant can avoid termination by giving the landlord a written objection notice.

[381] If the tenant gives a landlord an objection notice under section 29(4)(b) or simply stays in the home after the termination date, the next steps require a landlord to apply to a court or RTDRS. A landlord may apply for an order terminating a tenancy, an order for recovery of possession, or both. In the meantime, the landlord may not change the locks, remove the tenant's belongings, or do anything else to physically remove the tenant from the home. At a hearing, the court or RTDRS will consider the evidence to decide if the tenant committed a breach and whether the tenancy should be terminated. If so,

<sup>243</sup> The tenant should also return the keys or otherwise clearly communicate that they are returning possession of the home to the landlord. There are examples in case law of problems arising because tenants moved out without telling the landlord: see eg *Re 21000325*, 2021 ABRTDRS 11; *Re 22003152*, 2022 ABRTDRS 18.

<sup>244</sup> There are also examples in case law: see eg *Re 21000325*, 2021 ABRTDRS 11; *Re 22003152*, 2022 ABRTDRS 18; *Re 22006310*, 2022 ABRTDRS 32.

<sup>245</sup> *Residential Tenancies Act*, s 29(4).

the court or RTDRS may grant an order for recovery of possession. The order allows a landlord to hire a civil enforcement agency to evict the tenant.

### 3. ACCELERATED PROCESS TO TERMINATE FOR DAMAGE OR ASSAULT

[382] If a tenant commits certain serious breaches, section 30 provides an accelerated process for a landlord to terminate a tenancy by notice. It applies if a tenant has “done or permitted significant damage” to the home or “physically assaulted or threatened to physically assault the landlord or another tenant.”<sup>246</sup>

[383] In early consultation, we heard that these problems are rare. It is uncommon for a tenant to assault, threaten, or harass the landlord or other tenants. If it happens, however, it can have a big impact. The safety of the landlord or other tenants may be at risk. It could be especially dangerous or distressing for a landlord who rents a secondary suite in their home or lives in the same building as the tenant. The landlord may not feel safe in their own home.

[384] The process for terminating a tenancy under section 30 is similar to termination under section 29 but the notice period is much shorter. The termination date may be as little as 24 hours from the time the landlord gives the tenant a termination notice. If the tenant objects or does not leave by the time in the notice, the landlord has 10 days to apply to a court or RTDRS for an order confirming the termination.<sup>247</sup> The court or RTDRS may confirm the termination or declare that the termination was ineffective.<sup>248</sup> If the landlord does not apply within 10 days, or if the court or RTDRS declares the termination was ineffective, the tenancy continues.<sup>249</sup>

[385] RTDRS hears applications under section 30 as quickly as possible. According to the most recent RTDRS annual report, “they are typically heard in fewer than five business days.”<sup>250</sup>

<sup>246</sup> *Residential Tenancies Act*, s 30(1).

<sup>247</sup> *Residential Tenancies Act*, s 30(3).

<sup>248</sup> *Residential Tenancies Act*, ss 30(6), (7).

<sup>249</sup> *Residential Tenancies Act*, ss 30(5), (7).

<sup>250</sup> *RTDRS Annual Report* 4th ed, note 209 at 7.

## E. Issues: When a Landlord Initiates Termination for Breach

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[386] We heard several issues about how termination for breach works for landlords.

### 1. COMPLEX PROCESS TO REMOVE A TENANT

[387] A major concern for landlords is that it is difficult and slow to remove a tenant from a home.

[388] When a landlord terminates a tenancy for breach, there are three steps to remove a tenant from the home. The landlord must terminate the tenancy, obtain an order for recovery of possession, and hire a civil enforcement agency to evict the tenant. The *Residential Tenancies Act* does not describe the three steps clearly or in a logical order.

[389] In practice, there is some flexibility. A court or RTDRS may terminate a tenancy and make an order for recovery of possession at the same time, combining two steps. Often, it is not necessary for a landlord to complete all three steps. If a tenant moves out, the landlord will not need to complete the remaining steps. We heard in consultation that most tenants move out after termination or an order for recovery of possession. Statistics about applications for recovery of possession and evictions confirm that a minority of cases end in eviction.<sup>251</sup>

#### a. What is the practical effect of terminating a tenancy?

[390] On its own, the first step in the process – termination of the tenancy – does not force a tenant to leave. Nor does it make a meaningful difference to each person’s obligations. A tenant who continues to occupy a home after termination is overholding but they still have possession of the home.<sup>252</sup> A landlord must follow most of the same rules while the tenant has possession, whether or not

<sup>251</sup> From April 2023 to March 2024, the most recent full year for which statistics are available, RTDRS reported there were 11,212 landlord applications for recovery of possession under the *Residential Tenancies Act*: RTDRS *Annual Report* 4th ed, note 209 at 8. In the same year, the Office of the Sheriff – Civil Enforcement reported there were a total of 1,816 evictions carried out: Alberta Office of the Sheriff – Civil Enforcement, “Civil Enforcement Agencies Activity: April 2023 – March 2024” (2024), online: <[open.alberta.ca/dataset/0cef2cfd-37f7-4b00-8b56-78b9d5ce1ba5/resource/35389d1d-f44e-474b-8361-e0126ce7d952/download/pses-civil-enforcement-agency-activity-2023-2024.pdf](https://open.alberta.ca/dataset/0cef2cfd-37f7-4b00-8b56-78b9d5ce1ba5/resource/35389d1d-f44e-474b-8361-e0126ce7d952/download/pses-civil-enforcement-agency-activity-2023-2024.pdf)> [perma.cc/2M7W-MQQ3]. The reported evictions include all types of tenancies, including commercial tenancies or mobile home sites tenancies. Anecdotally, we heard that the vast majority of evictions are for residential tenancies.

<sup>252</sup> See *Residential Tenancies Act*, s 1(1)(h):

1(1)(h) “overholding tenant” means a person who was a tenant of premises and who does not vacate the premises after the tenancy has expired or been terminated;

they are overholding. In particular, the landlord cannot change the locks or do anything to physically remove the tenant until they complete the other steps. An overholding tenant is still responsible to pay the landlord. Whether the payment is called rent or “compensation for use and occupation of the premises,” they usually have to pay the same amount.<sup>253</sup>

[391] In effect, a landlord’s termination acts like a warning or ultimatum. A tenant who receives a termination notice may accept termination and move out, ending the tenancy. The notice informs them that if they do not leave voluntarily, the landlord may seek an order for recovery of possession and hire a civil enforcement agency to evict them.

**b. Are there other ways to streamline the process of removing a tenant?**

[392] Delay is a major concern for landlords. It takes time to complete all three steps. We heard in consultation that, at best, it is usually at least two months from the time a tenant commits a breach to the time they leave the home. It may take much longer.

[393] In the meantime, the landlord is usually losing income. They may also worry about an overholding tenant causing damage, disturbing others, or causing other harm.

## **ISSUE 18**

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Could the process for terminating a tenancy for breach and removing a tenant be simplified or streamlined?

### **2. DOES TERMINATION BY NOTICE CONTRIBUTE TO TENANTS LOSING THEIR HOMES UNNECESSARILY?**

[394] We also heard concerns that allowing landlords to terminate a tenancy by notice may contribute to tenants losing their homes unnecessarily.

[395] As discussed in Chapter 2, some landlords use notices to terminate as a kind of warning or ultimatum. They may not actually want to end a tenancy. Their goal may be to get the tenant to pay the rent or stop committing another kind of breach.

<sup>253</sup> See *Residential Tenancies Act*, s 26(1)(b)(ii). Courts and RTDRS often require an overholding tenant to pay a prorated amount per day instead of per month.

[396] A tenant who receives a termination notice may not know that they can avoid termination or how to do it. We heard that many tenants assume that a landlord's termination notice is effective and they must comply. It is especially likely to affect vulnerable tenants like newcomers, English language learners, people with limited education, or young people. They may not know their rights and face barriers getting reliable information or advice.<sup>254</sup> Even if they do not agree that they committed a breach or could change their behaviour, they may simply move out.

[397] There is a specific issue with termination notices that may contribute to this problem. A termination notice must be in writing and must include certain information.<sup>255</sup> The regulations include a suggested form.<sup>256</sup> As we wrote elsewhere, standard forms can be an educational tool.<sup>257</sup> In this case, however, the suggested form omits important information and may make it more difficult for tenants to understand their rights.

[398] If the reason for termination is non-payment of rent, the notice must include a statement "that the tenancy will not be terminated if, on or before the termination date ... the tenant pays the rent due ...".<sup>258</sup>

[399] A tenant may avoid termination for any other alleged breach by giving the landlord a written objection notice, but there is no requirement to mention this option in a termination notice. The suggested form does not include a statement that a tenant may object or how to object.

[400] A tenant who received a termination notice in the suggested form would have to do their own research to find out that they may object. They would have to read the *Residential Tenancies Act*, seek out public legal information, or get advice from someone knowledgeable.

[401] The Ministerial Advisory Committee on Residential Tenancies made a recommendation in its 1991 report that would address this gap. It recommended that the form of notice should include a notice of objection. The tenant would only have to sign the notice and file it to object.<sup>259</sup>

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<sup>254</sup> See *Residential Tenancies Act: General Issues* at paras 180-188.

<sup>255</sup> *Residential Tenancies Act*, s 29(2).

<sup>256</sup> *Residential Tenancies Ministerial Regulation*, Schedule, Form 3.

<sup>257</sup> See *Residential Tenancies Act: Before and During a Tenancy* at paras 108-109.

<sup>258</sup> *Residential Tenancies Act*, s 29(3).

<sup>259</sup> *Achieving a Balance* at 100.

## ISSUE 19

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Should legislation or suggested forms provide more information about options to avoid termination of a tenancy?

### 3. ISSUES ABOUT THE ACCELERATED PROCESS

[402] There are two issues specifically about the accelerated process to terminate a tenancy because of damage, assault, or threats.

[403] It is worth repeating that when a landlord terminates a tenancy for breach, it affects everyone who lives in the home. If a landlord uses section 30 to end a tenancy, the 24-hour notice may affect people other than the tenant who committed the serious breach. Innocent co-tenants, children, and other household members may all have to leave.

#### a. Should there be special rules to ensure tenants receive notices?

[404] In an earlier report, we asked whether there should be special rules about delivery of 24-hour termination notices to ensure tenants actually receive notice before the tenancy ends.<sup>260</sup> The *Residential Tenancies Act* does not say when service of a notice is effective. With any method other than personal service, there may be a delay between the landlord delivering the notice and the tenant receiving it. It could cause hardship, as a tenant may have little or no time to find another place to stay or remove their belongings.

[405] There is also nothing in the legislation that requires notice to everyone living in a home.

#### b. Does the notice period appropriately balance the interests of landlords and tenants?

[406] At first glance, the 24 hour notice period in section 30 is exceptionally short. Other Canadian jurisdictions have legislation allowing landlords to terminate a tenancy for similar reasons but they all require more notice.<sup>261</sup>

<sup>260</sup> *Residential Tenancies Act: Before and During a Tenancy* at paras 436-439.

<sup>261</sup> The next shortest notice period is in Manitoba. In Manitoba, a landlord can terminate a tenancy by giving a tenant 5 days notice if a tenant's breach causes a significant risk to health or safety, extraordinary damage, or an extraordinary disturbance: Manitoba Act, note 139, s 96(3). Many Canadian jurisdictions require a landlord to give a tenant between 10 to 15 days notice when terminating a tenancy for certain serious breaches: see eg Ontario Act, note 139, ss 61-66; *Residential Tenancies Act*, RSNWT 1988, c R-5, ss 54(1); *Residential Tenancies Act*, RSNS 1989, c 401, ss 10(7B)(a), 10(7C). Others usually require a longer notice period but give courts or tribunals discretion to reduce standard notice periods: see eg BC Act, note 134, s 56; Saskatchewan Act, note 41, s 68; *Residential Tenancies Act*, RSNWT 1988, c R-5, s 54(3).

Twenty-four hours is a short time to find a place to stay, even temporarily, or remove personal belongings from a home.

[407] In reality, it can take significantly more than 24 hours to remove a tenant. If the tenant does not leave, the landlord must apply for an order confirming the termination and an order for recovery of possession. An order for recovery of possession allows the landlord to hire a civil enforcement agency to remove the tenant. In consultation, we heard that the whole process can take some time. Even with RTDRS prioritizing applications, it can take days or weeks. In the meantime, the problems could continue. The landlord may worry that they or their other tenants are in danger or worry about additional damage to the home.

## **ISSUE 20**

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How can legislation appropriately balance the interests of landlords, all tenants, and other household members when a tenant commits a serious breach?

## **F. How Do the Options for Tenants and Landlords Compare?**

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[408] The legislation gives landlords and tenants different ways to terminate a tenancy for breach. It is worth considering how the different options balance the interests of landlords and tenants.

### **1. TERMINATION BY ORDER AND TERMINATION BY NOTICE**

[409] A landlord often has the option to terminate a tenancy unilaterally, without having to prove to a court, tribunal, or other authority that a breach occurred.<sup>262</sup> In contrast, a tenant cannot act on their own. They always need some kind of official action from an authority to terminate a tenancy. In most cases, a tenant must seek an order from a court or RTDRS. In the case of termination when a home does not meet minimum standards, a tenant can terminate a tenancy by notice but only if a public health inspector first makes an order under the *Public Health Act*.

[410] It is not clear why legislators decided to require greater scrutiny of tenants' claims than those of landlords. The difference has been part of the legislation since 1979, although it was not one of the recommendations in ALRI's

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<sup>262</sup> *Residential Tenancies Act*, ss 29, 30.

1977 report. In fact, ALRI recommended that either a tenant or a landlord should be able to end a tenancy for breach by giving the other a termination notice.<sup>263</sup>

[411] More than two decades later, when Alberta Government Services circulated discussion papers to gather input on potential reforms, it revisited the issue. The discussion paper asked if tenants should be able to terminate a tenancy by notice for certain kinds of breaches. The question began:<sup>264</sup>

Landlords must make sure that a place is ready for the tenant to live in at the beginning of the rental period. Landlords must also ensure that neither they nor anyone working for them disturbs the tenant's peaceful enjoyment of the place. It has been suggested that tenants should be able to give landlords 14 days' notice to end their tenancy if the landlord breaks these rules.

[412] The discussion paper asked respondents if they agreed or disagreed. Sixty-nine per cent of all respondents agreed. Separating responses from landlords and tenants, nearly 53 per cent of landlords agreed compared to nearly 90 per cent of tenants.<sup>265</sup>

[413] In 2004, the Legislature adopted a new version of the *Residential Tenancies Act*. For the first time, it allowed a tenant to terminate a tenancy for breach by notice but only if the home does not meet minimum standards. The new legislation did not implement the proposal in the discussion paper or allow a tenant to terminate by notice for any other kind of breach by a landlord.

[414] This difference gives landlords more protection than tenants against unfounded claims. A tenant must prove that a breach occurred before they can terminate the tenancy. A landlord only has to prove that a breach occurred if the tenant objects or does not move out.

[415] Some other Canadian jurisdictions allow tenants to end a tenancy by notice.<sup>266</sup>

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<sup>263</sup> *Residential Tenancies 1977* at 53-55, 63-68. The responsible Minister did not explain the reason for departing from ALRI's recommendations in debate on the bill and we have not found any other information to explain why the government rejected this part of ALRI's recommendations.

<sup>264</sup> Alberta Government Services, *Landlord and Tenant Legislation Discussion Paper* (2002) at 6 [unpublished, on file with ALRI].

<sup>265</sup> Alberta Government Services, *Landlord and Tenant Legislation Discussion Paper Returns and Analysis* (2002) at 8 [unpublished, on file with ALRI].

<sup>266</sup> See eg BC Act, note 134, s 45(3); Saskatchewan Act, note 41, s 56(2); Manitoba Act, note 139, s 89; *Residential Tenancies Act, 2018*, SNL 2018, c R-14.2, s 20(1).

## 2. TERMINATION FOR ASSAULT OR THREATS

[416] Landlords can use an accelerated process to terminate a tenancy for certain serious breaches. In particular, they can use this process if a tenant assaults or threatens the landlord or another tenant.<sup>267</sup>

[417] A tenant does not have a similar process available if a landlord or another tenant assaults or threatens the tenant or a member of their household. In our consultation, we heard concerns about bad behaviour by landlords, including harassing or threatening tenants. There were more examples in the Reddit data, including landlords entering tenant's homes, surveilling them, or making threats. There are also examples in case law.<sup>268</sup>

[418] A tenant in this situation would have to apply to a court or RTDRS to terminate the tenancy. While a tenant does not have to wait for termination to move out, there is a risk that they may be responsible to pay rent. This risk may discourage a tenant from leaving, especially if they are low income or have few assets. If it is already a struggle to pay rent, they may need to end their current tenancy before renting a new home.

### **ISSUE 21**

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Should legislation give landlords and tenants similar options for terminating a tenancy?

<sup>267</sup> *Residential Tenancies Act*, s 30(1).

<sup>268</sup> See eg *Re 22004071*, 2022 ABRTDRS 23. The landlord's behaviour included frequent texts of a sexual nature, entering the tenant's bedroom while he was sleeping, slapping him, and grabbing a knife to threaten him.

## CHAPTER 9

# Ending a Tenancy Because of Domestic Violence

## A. How Do the Rules Help Survivors of Domestic Violence?

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[419] There are special rules allowing a tenant to end a tenancy in cases of domestic violence. These rules have been part of the *Residential Tenancies Act* since 2015. They allow a tenant to end a tenancy “if, because of domestic violence, the tenant believes that his or her own safety, that of a dependent child of the tenant or of a protected adult who lives with the tenant is at risk if the tenancy continues.”<sup>269</sup>

[420] It is important to remember that a tenant experiencing or at risk of domestic violence may move out whether or not they end a tenancy.<sup>270</sup> A tenancy does not stop a person who believes they are in danger from going to a shelter or finding another place to stay.

[421] The special rules instead address a financial problem that can make it harder to escape domestic violence. In 2014, before these rules were added to the *Residential Tenancies Act*, the authors of a study about domestic violence and residential tenancies described how survivors of domestic violence may end up owing money to a landlord:<sup>271</sup>

The biggest legal problem that victims of domestic violence appear to face in obtaining and maintaining rental accommodation is dealing with the financial obligations that have arisen with respect to the accommodation. Victims often have little or no income of their own with which to pay for damages, overdue rent, and utility payments. ... And, since physical abuse is often coupled with financial abuse, the victim may find that the bills are in her name while credit cards, bank accounts, or other assets are in the hands of the abuser. Yet is it often the victim that the landlord pursues for overdue rent and damages.

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<sup>269</sup> *Residential Tenancies Act*, s 47.3(1).

<sup>270</sup> As discussed below at paras [433], [444]-[452], there may be practical issues that prevent a person experiencing domestic violence from moving out.

<sup>271</sup> Lois Gander & Rochelle Johannson, *The Hidden Homeless: Residential Tenancies Issues of Victims of Domestic Violence* (Edmonton: Centre for Public Legal Education & University of Alberta, 2014) at 5, online: <[cplea.ca/wp-content/uploads/2015/01/FINAL-Report-The-Hidden-Homeless.2014Jun05.pdf](http://cplea.ca/wp-content/uploads/2015/01/FINAL-Report-The-Hidden-Homeless.2014Jun05.pdf)> [perma.cc/FMB4-UH8K].

[422] The result can be a bad credit rating and a bad reference from the landlord, making it harder for a survivor of domestic violence to find other housing. The authors describe how the situation could push survivors to return to an abuser or lead to them becoming homeless.<sup>272</sup>

[423] The special rules can help a tenant by ending the tenancy early and therefore ending their financial obligations. There are a few unique benefits when a tenant uses these rules. First, the tenant is only responsible for rent up to the termination date. If the termination date is partway through the month or tenancy period, they pay a prorated amount.<sup>273</sup> Second, they can avoid paying a lease break fee or other penalty for ending a tenancy early. Some landlords charge a fee when a tenant moves out before the end of a fixed term tenancy but the legislation prohibits charging these fees if a tenant uses these rules.<sup>274</sup> Third, a tenant can use the security deposit to pay the rent. If the tenant asks, the landlord must take the rent from the security deposit.<sup>275</sup> In the short term, it means the tenant has more money available to pay a security deposit and rent for a new home or to meet other needs as they escape domestic violence.

## **B. How Does a Tenant End a Tenancy for Domestic Violence?**

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[424] There is a special procedure a tenant must follow to end a tenancy for domestic violence. There are several steps.

[425] First, the tenant must gather evidence to show that they have experienced domestic violence. The legislation requires either a court order or a statement from a person “indicating that person’s opinion that the tenant has been the subject of domestic violence.”<sup>276</sup> The legislation has a list of people who may provide the statement, including a doctor, a nurse, a social worker, a psychologist, a police officer, or an employee at a shelter or other organization that helps victims.<sup>277</sup>

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<sup>272</sup> Gander & Johannson, note 271 at 5-8.

<sup>273</sup> *Residential Tenancies Act*, s 47.3(4)(a).

<sup>274</sup> *Residential Tenancies Act*, s 47.3(4)(b). For more about lease break fees, see *Residential Tenancies Act: Before and During a Tenancy* at paras 271-275.

<sup>275</sup> *Residential Tenancies Act*, s 47.3(4)(c).

<sup>276</sup> *Residential Tenancies Act*, s 47.4(2)(a)(i)-(ii).

<sup>277</sup> *Residential Tenancies Act*, s 47.4(4).

[426] Next, the tenant must apply to a provincial government office, called Safer Spaces, for a certificate.<sup>278</sup> The tenant must provide the court order or statement. If Safer Spaces “is satisfied that there is a risk to the safety of the tenant, the tenant’s dependent child or a protected adult who lives with the tenant if the tenancy continues”, it will issue a certificate to the tenant. The *Residential Tenancies Act* requires Safer Spaces to make a decision within 7 days.<sup>279</sup>

[427] Once Safer Spaces issues a certificate, the tenant can set a termination date and give notice to the landlord.<sup>280</sup> The tenant must give a written notice and the certificate to the landlord. The notice must include a termination date at least 28 days from the day the tenant gives the landlord notice. If the tenant provides proper notice, the tenancy ends on the termination date. The tenant has to pay rent up to the termination date. They do not have to pay rent after the termination date or pay any penalty for ending the tenancy early.

[428] Only a small fraction of tenants use these rules to end a tenancy. In the last year that statistics were reported, from April 2022 to March 2023, Safer Spaces issued 336 certificates.<sup>281</sup> Our consultation confirmed that it is not a common way to end a tenancy. Some landlords said they had rarely had a tenant use these rules. Others had never experienced it.

## C. Issues

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[429] Our research and consultation turned up a few issues about ending a tenancy for domestic violence. Most people seemed to agree that tenants should have the option to end a tenancy for this reason. The concerns were mostly about details of how the rules work.

<sup>278</sup> *Residential Tenancies Act*, s 47.4(1); Alberta, “Safer Spaces certificate to end tenancy”, online: <[alberta.ca/safer-spaces-certificate](http://alberta.ca/safer-spaces-certificate)> [perma.cc/M566-ST3L].

<sup>279</sup> *Residential Tenancies Act*, s 47.4(3):

47.4(3) The designated authority shall, within 7 days of receiving an application under subsection (1), either issue a certificate under subsection (2) or advise the tenant or the person who applied on behalf of the tenant that the certificate will not be issued.

<sup>280</sup> *Residential Tenancies Act*, s 47.3.

<sup>281</sup> Alberta Seniors, Community and Social Services, *Annual Report 2022-2023* (2023) at 50, online: <[open.alberta.ca/dataset/3a6b50d8-c1f2-4e9a-94ec-62f1e0a34e59/resource/417f8027-7b9f-4fe3-a123-a4fe3473a030/download/scss-annual-report-2022-2023.pdf](https://open.alberta.ca/dataset/3a6b50d8-c1f2-4e9a-94ec-62f1e0a34e59/resource/417f8027-7b9f-4fe3-a123-a4fe3473a030/download/scss-annual-report-2022-2023.pdf)> [perma.cc/T6BE-PZ26] To our knowledge, there has been no public reporting on the number of certificates issued since then.

## 1. WHAT RELATIONSHIPS SHOULD BE CONSIDERED?

[430] These special rules only apply to violence within certain relationships. The people involved must have one of the relationships listed in section 47.2(1).<sup>282</sup> A tenant can use these rules if the abuser is a spouse or a former spouse, a partner or former partner, the other parent of their child, or another relative by blood, marriage, or adoption, among others.

[431] These rules do not help a tenant if someone else is being violent or abusing them. Notably, they do not help if their landlord or another tenant harms or threatens them.

### ISSUE 22

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Should legislation include rules about terminating a tenancy when a tenant's safety is at risk because of other kinds of violence, like violence from their landlord or another tenant?

## 2. IS IT AS FAST AND EFFECTIVE AS INTENDED?

[432] In theory, the purpose of the rules is to make it easy and fast for a tenant to end their financial obligations if they need to escape a dangerous situation.<sup>283</sup> Some have questioned whether it achieves its goal.

[433] One concern is that the process is too complex.<sup>284</sup> While it may not seem difficult to gather evidence, apply for a certificate, and prepare a written notice to the landlord, the context is important. As Jennifer Koshan and Jonnette Watson

<sup>282</sup> *Residential Tenancies Act*, s 47.2(1):

47.2(1) For the purposes of this Part, domestic violence occurs when a person, that person's dependent child or a protected adult who lives with that person is subjected to any of the acts or omissions listed in subsection (2) by another person who

- (a) is or has been married to that person, is or has been an adult interdependent partner of that person or is residing or has resided together with that person in an intimate relationship,
- (b) is or has been in a dating relationship with that person, regardless of whether they have lived together at any time,
- (c) is the biological or adoptive parent of one or more children with that person, regardless of their marital status or whether they have lived together at any time,
- (d) is related to that person by blood, marriage or adoption or by virtue of an adult interdependent relationship, regardless of whether they have lived together at any time, or
- (e) resides with that person and has care and custody over that person pursuant to an order of a court.

<sup>283</sup> Alberta, Legislative Assembly, *Alberta Hansard*, 29th Leg, 1st Sess (16 November 2015) at 480 (Dr Swann): "This bill proposes to amend the act to make it easier for victims of domestic violence to leave an abusive partner or spouse and to establish a process for them to terminate tenancy early and without a penalty."

<sup>284</sup> Koshan & Watson Hamilton, note 179:

[A]re the procedures in Bill 204 too complex? For example, we have already noted that there is a mandatory form of notice, a mandatory 28 day notice period, and a mandatory certificate in a prescribed form ...

Hamilton pointed out in a blog post, a tenant must navigate the process “at a time when their lives are in upheaval and their ability to cope is limited.”<sup>285</sup> A person leaving an abusive relationship often faces multiple issues all at once. They may be dealing with police or the criminal justice system, seeking an emergency protection order or another court order for protection, and be involved in family law proceedings.<sup>286</sup> At the same time, there may be immediate practical issues like moving to a shelter or finding other housing, meeting basic needs, and looking after children or pets. They have to do it while coping with difficult emotions, like fear, sadness, and stress. Completing the steps to terminate a tenancy, and doing them properly, is another burden for someone who is likely already overwhelmed.

[434] Another concern is about the time to complete the process and end a tenancy. At best, the process takes a little more than a month.<sup>287</sup> In some cases, it may be longer.

### ISSUE 23

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Could the process for ending a tenancy because of domestic violence be streamlined or simplified?

### 3. WHEN DO THESE RULES HELP A TENANT?

[435] The potential benefit of ending a tenancy for domestic violence depends on the type of tenancy. For a tenant with a monthly periodic tenancy, there may be a limited financial benefit, possibly offset by the added steps required. A tenant with a fixed term tenancy or a yearly periodic tenancy is more likely to see a significant financial benefit.

[436] A tenant with a periodic tenancy may end a tenancy for any reason by providing a written notice to the landlord. If they end a tenancy this way, there is no need to provide a reason, a certificate, or any evidence of domestic violence. A tenant does not have to reveal personal information to the landlord.

<sup>285</sup> Koshan & Watson Hamilton, note 179; see also Gander & Johannson, note 271 at 4-5.

<sup>286</sup> Gander & Johannson, note 271 at 17-29.

<sup>287</sup> In the best case, a tenant could obtain an order or statement and apply for a certificate on the same day. It may take Safer Spaces a few days to process the application and issue a certificate. In 2022-2023, the average processing time was five days: Alberta Seniors, Community and Social Services, *Annual Report 2022-2023* (2023) at 50, online: <[open.alberta.ca/dataset/3a6b50d8-c1f2-4e9a-94ec-62f1e0a34e59/resource/417f8027-7b9f-4fe3-a123-a4fe3473a030/download/scss-annual-report-2022-2023.pdf](https://open.alberta.ca/dataset/3a6b50d8-c1f2-4e9a-94ec-62f1e0a34e59/resource/417f8027-7b9f-4fe3-a123-a4fe3473a030/download/scss-annual-report-2022-2023.pdf)> [perma.cc/T6BE-PZ26]. After receiving the certificate, the tenant must provide the landlord with at least 28 days notice. Altogether, it would be about 33 days from obtaining an order or statement to the termination date.

[437] A tenant with a monthly periodic tenancy might save some money if they end a tenancy for domestic violence. At best, however, the savings would be less than a month's rent. It is because there is a special way to calculate the notice period for ending a tenancy for domestic violence. To end a monthly periodic tenancy without a reason, a tenant must give the landlord notice "on or before the first day of the tenancy month to be effective on the last day of that tenancy month."<sup>288</sup> If they give the notice late, the tenancy ends "on the last day of the first complete tenancy month following the date on which the notice is served."<sup>289</sup> In other words, the tenancy continues another month. It can take up to 61 days to end a monthly periodic tenancy.

[438] If a tenant ends a tenancy for domestic violence, they only need to provide 28 days notice and the notice period can start on any day of the month. In their blog post, Jennifer Koshan and Jonnette Watson Hamilton used an example to show the potential benefit:<sup>290</sup>

The new 28-day notice period is not affected by calendar months, so that notice could be given, for example, on December 15 to be effective on January 12, rather than January 31, a saving of 20 days' rent. The 28-day period is thus more flexible, but its impact may be limited.

[439] The benefit of saving part of a month's rent has to be balanced against the extra effort required to complete additional steps.

[440] The potential benefit is often greater for a tenant with a fixed term tenancy, especially if the end date is several months away.<sup>291</sup> Domestic violence is one of the few reasons a tenant with a fixed term tenancy can end it before the end date.<sup>292</sup> Without these rules, a tenant experiencing domestic violence could be responsible to pay rent until the end date of a fixed term tenancy.<sup>293</sup> Allowing a tenant to end a tenancy early can be a significant benefit, saving them months of rent and allowing them to avoid paying a lease break fee or other penalty.

<sup>288</sup> *Residential Tenancies Act*, s 8(1)(a).

<sup>289</sup> *Residential Tenancies Act*, s 10(2)(b)(i).

<sup>290</sup> Koshan & Watson Hamilton, note 179.

<sup>291</sup> Koshan & Watson Hamilton, note 179. The special rules may also benefit tenants with yearly periodic tenancies, although there are probably fewer of them.

<sup>292</sup> It is also one of the few reasons a tenant can terminate a yearly periodic tenancy before the anniversary date.

<sup>293</sup> In the case of a yearly periodic tenancy, they could be responsible until the end of the tenancy year. As discussed in Chapter 4 at paras [160]-[163], a tenant may have other options to limit their financial responsibility, like termination by agreement, assignment or subleasing, or repudiation. There are downsides to each of these other options.

#### 4. HOW DO THESE RULES FIT WITH OTHER LAWS OR POLICIES?

[441] Domestic violence is a major, complex issue. There are many laws, policies, and processes that play a role in addressing it. There are also “inconsistencies, conflicts, and gaps” between laws “that may compromise access to justice and safety.”<sup>294</sup>

[442] Rules for ending a tenancy because of domestic violence developed separately from other legislation and policies about domestic violence. They became part of the *Residential Tenancies Act* when the legislature passed a private member’s bill. The bill only affected the *Residential Tenancies Act*.<sup>295</sup> It was not coordinated with other initiatives to address domestic violence.

[443] The process resulted in legislation that does not fit perfectly with other laws about domestic violence. For example, there are inconsistencies in definitions. The definition of “domestic violence” in the *Residential Tenancies Act* does not mirror the definition of “family violence” in other Alberta legislation.<sup>296</sup> Although the differences may seem minor, they add complexity to the law and can have practical consequences.<sup>297</sup>

#### 5. WHAT IF A SURVIVOR DOES NOT WANT TO LEAVE THE HOME?

[444] The rules in the *Residential Tenancies Act* only assist a tenant who wishes to leave the home. They do not assist a person who is not a tenant or a person who wishes to remain in the home. While leaving the home may be the right choice for some survivors, it is not the only choice or the best choice in all situations.

[445] Other researchers have pointed out problems with an approach that only contemplates a survivor leaving the home.<sup>298</sup> Sometimes domestic violence itself prevents a person from leaving their home. They cannot leave without a safe place to go. They may be unable to search for other housing safely because an abuser restricts or monitors their movements, phone calls, or internet use.

<sup>294</sup> Jennifer Koshan, “Mapping Domestic Violence Law and Policy in Alberta: Intersections and Access to Justice” (2021) 58:3 *Alta L Rev* 521 at 523.

<sup>295</sup> *Residential Tenancies (Safer Spaces for Victims of Domestic Violence) Amendment Act, 2015*, SA 2015, c 20.

<sup>296</sup> Koshan, note 294 at 539; Koshan & Watson Hamilton, note 179.

<sup>297</sup> Koshan, note 294 at 545.

<sup>298</sup> Hayley Hrymak, “Should I Have Just Stayed?” *Improving Family Law Remedies for Survivors During BC’s Housing Crisis* (Vancouver: Rise Women’s Legal Centre, 2025) at 42, online: <womenslegalcentre.ca/publications/should-i-have-just-stayed> [perma.cc/Z6AL-K5JN]; Gander & Johansson, note 271 at 39, 58.

Financial or economic abuse can interfere with the search for housing in several ways. A victim of financial or economic abuse may be unable to pay rent or a security deposit for a new home. They may not have housewares, furniture, or the money to buy the things they need to furnish a new home. Financial or economic abuse may affect their credit rating or references, so a potential landlord may hesitate to rent to them.

[446] A person responsible for children, other household members, or pets has even more to consider. A parent needs a safe, stable home for their children. It may not be safe to leave children or other household members with an abuser but it can be hard to find a home that meets the needs of a family, especially for large families.<sup>299</sup> Research shows that single-parent families face discrimination when seeking a home to rent.<sup>300</sup> If a survivor leaves without finding a suitable home, child protection issues or family law proceedings could lead to children being removed from their care. The children could end up placed with the abuser. A person with pets must consider their safety and wellbeing.<sup>301</sup> They may not be safe with the abuser but it can be hard to find housing that allows pets.

[447] Shelters and other organizations offer vital help overcoming these barriers but do not solve all the issues for all survivors. A survivor may not be able to go to a shelter when they need it because it is full or has a waiting list. Some shelters cannot accommodate pets. In rural areas, there may not be a shelter nearby. A survivor may not have transportation to get to a shelter or may be reluctant to leave their community.

<sup>299</sup> See *Residential Tenancies Act: General Issues* at para 99.

<sup>300</sup> See eg Megan Earle, Gordon Hodson & Sophie O'Manique, *Measuring Discrimination in Rental Housing Across Canada* (Canadian Centre for Housing Rights, 2025) at 18,24, 27, online: <[housingrightscanada.com/reports/measuring-discrimination-in-rental-housing-across-canada/](https://housingrightscanada.com/reports/measuring-discrimination-in-rental-housing-across-canada/)> [perma.cc/WE32-MDNZ]; Canadian Centre for Housing Rights, "Sorry, it's rented.": *Measuring Discrimination Against Newcomers in Toronto's Rental Housing Market* (Canadian Centre for Housing Rights, 2022) at 26-29, online: <[housingrightscanada.com/wp-content/uploads/2022/11/CCHR-Sorry-its-rented-Discrimination-Audit-2022.pdf](https://housingrightscanada.com/wp-content/uploads/2022/11/CCHR-Sorry-its-rented-Discrimination-Audit-2022.pdf)> [perma.cc/8YHW-S9MZ].

<sup>301</sup> See eg Hayley Hrymak, "Should I Have Just Stayed?" *Improving Family Law Remedies for Survivors During BC's Housing Crisis* (Vancouver: Rise Women's Legal Centre, 2025) at 39, online: <[womenslegalcentre.ca/publications/should-i-have-just-stayed](https://womenslegalcentre.ca/publications/should-i-have-just-stayed)> [perma.cc/Z6AL-K5JN] [footnotes omitted]:

During our research we heard countless survivors explain that their former partners threatened to harm their pets, including if the survivor was out of the home. ... Participants spoke of not being able to leave their abusive relationship without taking their pet with them. Overall, survivors found it very difficult to make plans on where they could go, and when they could leave, until there was a safe plan in place for their pets.

[448] For all these reasons survivors need a range of options for seeking safety. Sometimes, the best option is for the survivor to remain in the home and remove the abuser. This approach can be called the safe at home approach.<sup>302</sup>

[449] Some other legislation in Alberta has elements of a safe at home approach. The *Protection Against Family Violence Act* allows courts to make orders to protect a person from violence. Among other things, an order may grant a survivor exclusive occupation of a home, including a rented home.<sup>303</sup> A court can make this order without any input from a landlord. Whether or not the person with exclusive occupation of the home is a tenant under the residential tenancy agreement, once the order is made they have many of the rights of a tenant.<sup>304</sup> Other legislation allows a court to grant exclusive possession of a family home to a spouse or adult interdependent partner and gives the person in possession all the rights and responsibilities of a tenant.<sup>305</sup>

[450] While survivors have a range of options, there are some challenges that come with having them in different legislation. It is not always clear what options are available or how they can be combined. Some survivors may have to navigate multiple processes. For example, the remedies in the *Protection Against Family Violence Act* do not include terminating a tenancy. The act does not mention the *Residential Tenancies Act* or the option to terminate a tenancy because of domestic violence. A survivor seeking exclusive occupation of a home and other protections might get them all in a protection order. In contrast, a survivor seeking termination of a tenancy and other protections would have to apply for a protection order under the *Protection Against Family Violence Act*, then provide the order to Safer Spaces and apply for a certificate allowing them to terminate the tenancy.

[451] Similarly, the *Residential Tenancies Act* does not mention the option for a survivor of domestic violence to stay in the home. It does not refer to other

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<sup>302</sup> See eg Canadian Mortgage and Housing Corporation, “Safe-at-Home Housing for Victims of Domestic Violence” (18 May 2023), online: <cmhc-schl.gc.ca/nhs/nhs-project-profiles/2021-nhs-projects/safe-home-housing-victims-domestic-violence> [perma.cc/GZ5T-66LC].

<sup>303</sup> *Protection Against Family Violence Act*, RSA 2000, c P-27, ss 2(3)(c), 4(2)(c).

<sup>304</sup> *Protection Against Family Violence Act*, RSA 2000, c P-27, ss 9(2), (3).

<sup>305</sup> *Family Law Act*, SA 2003, c F-4.5, ss 68, 72; *Family Property Act*, RSA 2000, c F-4.7, ss 19, 24. Different legislation uses slightly different terms. The *Protection Against Family Violence Act* allows a court to grant “exclusive occupation” while the *Family Law Act* and the *Family Property Act* say “exclusive possession”. All three say “lease” while the *Residential Tenancies Act* usually says “residential tenancy agreement”: compare *Protection Against Family Violence Act*, RSA 2000, c P-27, s 9; *Family Law Act*, SA 2003, c F-4.5, ss 69(e), 72; *Family Property Act*, RSA 2000, c F-4.7, ss 19, 24; *Residential Tenancies Act*, s 1(1)(m).

legislation that allows courts to make orders for exclusive occupation or possession. It does not say how these orders affect a residential tenancy.

[452] There may be a need for a larger project to review and harmonize laws and policies addressing domestic violence, to create a cohesive scheme.

## 6. WHAT HAPPENS TO CO-TENANTS?

[453] Other parts of the *Residential Tenancies Act* do not clearly say whether one tenant can end a tenancy for all co-tenants.<sup>306</sup> In this part of the legislation, however, the rule is clearly spelled out. If one tenant ends a tenancy for domestic violence, the tenancy ends for all co-tenants. Section 47.3(5) says:

47.3(5) Where a tenancy is terminated under this section, the tenancy is terminated for all the tenants in the same residential premises but, for greater certainty, the other tenants and the landlord may agree to enter into a new landlord and tenant relationship.

### a. Notifying other co-tenants

[454] The legislation does not say when or how other co-tenants should be informed that the tenancy will end. Section 47.3(6) suggests that Safer Spaces, which issues certificates, has a role in informing the other co-tenants:<sup>307</sup>

47.3(6) In a case where a tenancy is held by more than one tenant, the designated authority may require a tenant to advise the designated authority when notice under this section is served so that the designated authority may, in coordination with the landlord, take steps to notify the other tenants that the tenancy will terminate.

[455] The Safer Spaces website, however, does not mention any way that Safer Spaces assists tenants or landlords to notify other tenants. Instead, it says a landlord should notify them.<sup>308</sup> It could be a heavy responsibility for a landlord, especially if they are the first to tell an alleged abuser that the survivor has left. A 2017 research project explored how landlords respond to domestic violence in Alberta. It found that landlords lacked training and support in domestic

<sup>306</sup> See *Residential Tenancies Act: General Issues* at paras 404-410.

<sup>307</sup> *Residential Tenancies Act*, s 47.3(6).

<sup>308</sup> Government of Alberta, "Safer Spaces - Information for landlords", online: <[alberta.ca/safer-spaces-certificate-landlords](http://alberta.ca/safer-spaces-certificate-landlords)> [perma.cc/SFS2-XVG3]:

When a lease ends due to a certificate being issued, 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 ending, but can if they feel comfortable doing so. Otherwise, the landlord will notify these tenants of the termination.

violence.<sup>309</sup> Landlords may feel unprepared for these conversations. They may worry about the safety of the survivor or their own safety.

[456] Assuming it is the landlord's responsibility to inform the other co-tenants, there are no rules in the legislation about how or when a landlord should do so. Do they have to provide a written notice? When do they have to provide it?

**b. Effect of ending a tenancy on co-tenants or other people living with the tenant**

[457] If one co-tenant ends a tenancy for domestic violence, other co-tenants may face difficult decisions on short notice. Even if they are informed on the same day as the landlord – which is not clearly required in the legislation – they may have as little as 28 days to make a new agreement with the landlord or move.

[458] There is no guarantee that the other co-tenants will be able to stay in the home. A landlord may make a new residential tenancy agreement with them but does not have to.<sup>310</sup> If the landlord will not make a new agreement or if they cannot agree, 28 days is not much time to find a new home.

[459] It is worth remembering that other co-tenants may be entirely innocent. While sometimes the only other co-tenant will be the abuser, it will not always be the case. Co-tenants could be other family members or roommates. A person does not need to live with their abuser to end a tenancy for domestic violence. For example, a person being stalked by a former dating partner could use these rules to end a tenancy. If they did, the tenancy would also end for any family members or roommates who live in the home, regardless of whether they were involved in or affected by the violence.

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<sup>309</sup> Lois Gander, *Domestic Violence: Roles of Landlords and Property Managers*, Final Report (Edmonton: Centre for Public Legal Education Alberta, 2017) at 7, online: <cplea.ca/wp-content/uploads/2017/04/HTE-DV-Roles-LL-and-PM-FinalReportFEB2017.pdf> [perma.cc/QQF6-ZCHX].

<sup>310</sup> See *Residential Tenancies Act*, s 47.3(5); Chapter 2 at paras [83]-[88], and note 51



## CHAPTER 10

# Ending Employee Tenancies

## A. Employer-Provided Housing

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[460] Some employers provide housing to their employees, so they are also their employees' landlord. Examples of employees who live in employer-provided housing include resident managers or caretakers, workers in tourist communities like Banff and Jasper, and some agricultural workers. In another report in this series, we discussed whether the *Residential Tenancies Act* does or should apply to certain kinds of employer provided housing.<sup>311</sup>

[461] The *Residential Tenancies Act* has special rules for ending a tenancy when the tenant lives in employer-provided housing.<sup>312</sup> Either an employer or employee can end a periodic tenancy if the employment relationship ends.<sup>313</sup> Either one can end the tenancy, regardless of whether the employer dismissed the employee or the employee resigned.

[462] There are two things that make these rules special.

### 1. WHEN CAN AN EMPLOYER OR EMPLOYEE END A TENANCY?

[463] The first is about the reason for ending a tenancy. These rules give an employer-landlord an additional reason to end a periodic tenancy. An employer who provides housing can end an employee's tenancy for any reason available to any other landlord. They can also end a periodic tenancy if the employment relationship ends, even if they would not otherwise be able to end the tenancy.

### 2. HOW IS THE NOTICE PERIOD DIFFERENT?

[464] The second is about the amount of notice. Depending on the circumstances, an employer-landlord or employee-tenant may be able to end a

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<sup>311</sup> *Residential Tenancies Act: General Issues* at paras 328-336.

<sup>312</sup> These rules apply if the *Residential Tenancies Act* applies. For example, they would apply if a resident manager rents an entire apartment from their employer-landlord. They would not apply if a live-in caregiver rents a room in the house of their employer-landlord: see *Residential Tenancies Act: General Issues* at paras 328-336.

<sup>313</sup> *Residential Tenancies Act*, s 11.

tenancy with less notice after the employment relationship ends than they could for any other reason.

[465] The person ending the tenancy must give at least the same amount of notice required to terminate employment, and sometimes more. The formula is in section 11 of the *Residential Tenancies Act*:<sup>314</sup>

11 If 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 in sufficient time to provide a period of notice of termination of the tenancy that is

(a) a period equal to

(i) the period of notice of termination of employment required under any law in force in Alberta that is applicable to the tenant's employment,

(ii) the period of notice of termination of employment agreed on by the landlord and the tenant, or

(iii) one week,

whichever is longest, or

(b) a period prescribed in or determined in accordance with the regulations.

[466] There are currently no regulations under the *Residential Tenancies Act* that prescribe the amount of notice, so section 11(b) has no effect.

### 3. HOW DO THESE RULES APPLY TO SHARED HOUSING?

[467] These rules have been part of the legislation since 1979. In its 1977 report, ALRI recommended there should be a shorter notice period to end a tenancy when an employment relationship ends.<sup>315</sup> The legislature adopted *The Landlord and Tenant Act, 1979*, with a section almost identical to the current section 11. Reviews of the *Residential Tenancies Act* in 1989 and in the early 2000s turned up concerns about notice to end a tenancy in employer-provided housing.

[468] While this section has not changed since 1979, there have been other changes affecting how it applies to shared accommodation. These changes have

<sup>314</sup> *Residential Tenancies Act*, s 11.

<sup>315</sup> ALRI recommended a one-week notice period: *Residential Tenancies 1977* at 82.

particularly affected employer-landlords and employee-tenants in tourist communities like Banff and Jasper. Many employers in tourist communities provide housing for employees. Often it is shared accommodation, with several employees sharing a room or apartment.

[469] The *Residential Tenancies Act*, including section 11, has always applied if an employee-tenant had a whole house or apartment.

[470] From 1979 to 1991, the *Residential Tenancies Act* applied only to self-contained dwelling units.<sup>316</sup> It did not apply to shared accommodation.

[471] When the Ministerial Advisory Committee on Residential Tenancies met with Banff residents in 1989, it heard that employees living in shared accommodation were often forced to leave their home with as little as one hour of notice if their employment was terminated. The committee recommended that the legislation should apply to shared accommodation. The recommendation was implemented, so since 1991 employee-tenants living in shared accommodation have had the protections in the *Residential Tenancies Act*.

[472] More than a decade later, the Alberta government consulted on possible reforms to residential tenancies legislation. When the *Residential Tenancies Act* was replaced in 2004, the legislature added section 11(b), allowing the notice period to be prescribed in regulations. Around that time, an Alberta government survey about residential tenancy regulations included several questions about the notice period for ending employee tenancies. Many responses were from employers in tourist communities.<sup>317</sup> They raised concerns that former employees might cause damage or harm other tenants after termination. They also said the notice period could cause delays in filling vacant positions, as they could not provide a new employee with housing until the former one left. Some suggested that instead of letting a former employee stay in the home, the employer should be able to pay for them to stay in a hotel for the notice period. Other respondents said it would cause hardship for an employee-tenant to lose their job and housing all at once or said that they should get more notice as one week is not enough time to find a new home.

<sup>316</sup> *Landlord and Tenant Act*, RSA 1980, c L-6, s 1(e). ALRI recommended this rule in its 1977 report: *Residential Tenancies 1977* at 12, 14.

<sup>317</sup> Of 288 responses, 175 seem to have been from landlords, including 74 identified as providing staff accommodation. In contrast, there seem to have been 47 responses from tenants, with only two identified as a tenant in staff accommodation. The remaining 66 responses were from others, including organizations and unspecified respondents: Alberta Government Services, *Residential Tenancies Ministerial Regulation Survey Results – Final Results* (2004) at 28 [unpublished, on file with ALRI].

## B. Issues

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[473] On first reading, the rules for ending an employee tenancy may seem straightforward. On closer examination, however, it can be challenging to interpret and apply them.

### 1. HOW MUCH NOTICE IS REQUIRED?

[474] There is some ambiguity about the amount of notice required to end an employee tenancy. To understand the issue, it is necessary to briefly review some principles of employment law.

[475] In most cases, an employer or employee who wants to terminate an employment relationship must give notice to the other.<sup>318</sup> Employers do not always require employees to work through the notice period. Sometimes an employer pays the employee the amount they would have earned during the notice period without requiring them to work.

[476] There is legislation setting minimum notice periods. For most employers and employees in Alberta, it is the *Employment Standards Code*.<sup>319</sup> If the employee works in a federally regulated industry, the relevant legislation is the *Canada Labour Code*.<sup>320</sup> The minimum notice period depends on several factors: whether the employer or employee terminates employment, the reason for termination, the type of work, and the employee's length of service.<sup>321</sup>

<sup>318</sup> There are exceptions. For example, if an employer fires an employee for just cause, no notice is required. Other exceptions are in *Employment Standards Code*, RSA 2000, c E-9, ss 55(2), 58(2) [*Employment Standards Code*]; *Employment Standards Regulation*, Alta Reg 14/1997, s 5.

<sup>319</sup> *Employment Standards Code*, note 318, ss 54-58.

<sup>320</sup> *Canada Labour Code*, RSC 1985, c L-2, s 230. Federally regulated industries include banking, airlines, radio or television broadcasting, interprovincial transportation, and others.

<sup>321</sup> If the *Employment Standards Code* applies, the minimum notice period when the employee terminates the relationship is one or two weeks depending on their length of service: *Employment Standards Code*, note 318, s 58(1). If the employer terminates the relationship, the minimum notice periods are in s 56:

- 56 To terminate employment an employer must give an employee written termination notice of at least
- (a) one week, if the employee has been employed by the employer for more than 90 days but less than 2 years,
  - (b) 2 weeks, if the employee has been employed by the employer for 2 years or more but less than 4 years,
  - (c) 4 weeks, if the employee has been employed by the employer for 4 years or more but less than 6 years,
  - (d) 5 weeks, if the employee has been employed by the employer for 6 years or more but less than 8 years,
  - (e) 6 weeks, if the employee has been employed by the employer for 8 years or more but less than 10 years, or
  - (f) 8 weeks, if the employee has been employed by the employer for 10 years or more.

[477] While legislation sets the minimum, an employer may have to give more notice than the minimum. Employers and employees can make an agreement about the notice period. If the agreement requires a longer notice period than the legislation, the employer or employee has to provide the notice in the agreement. If there is no agreement, there is a common law rule that an employer must give an employee reasonable notice of termination. Reasonable notice depends on many factors.<sup>322</sup> It is unique to each case and there is no clear formula to apply. Ultimately, if an employer and employee cannot agree on the reasonable notice period, they would have to go to court to have a judge decide. It could take months or years to resolve.

**a. Does it matter who terminates employment?**

[478] The first ambiguity is about which notice period in legislation applies. Section 11(1)(a) does not say clearly whether it is the notice an employer must give an employee or the notice an employee must give an employer. It matters, because in many cases an employee can resign with less notice.

[479] For example, imagine an employee who worked for the same employer for 12 years. If the *Employment Standards Code* applies, the employee would have to give two weeks notice to resign.<sup>323</sup> If it is the employer who lets the employee go, the employer would have to provide a minimum of eight weeks notice. If the employee-tenant resigns and the employer-landlord wants to use section 11 to end the tenancy, does the employer have to provide two weeks notice or eight weeks notice?

**b. Is the notice required the minimum in legislation or common law reasonable notice?**

[480] The second ambiguity comes from another phrase in section 11(a)(i). The notice required to terminate the tenancy must be at least equal to “the period of notice of termination of employment required under any law in force in Alberta ...”.<sup>324</sup> There is no question that it includes the notice required under the *Employment Standards Code* or the *Canada Labour Code*. The phrase “any law in

<sup>322</sup> The leading case on determining reasonable notice is *Bardal v Globe & Mail Ltd.* (1960), 24 DLR (2d) 140 (Ont SC). The court’s list of factors (at 145) is often quoted:

The reasonableness of the notice must be decided with reference to each particular case, having regard to the character of the employment, the length of service of the servant, the age of the servant and the availability of similar employment, having regard to the experience, training and qualifications of the servant.

<sup>323</sup> *Employment Standards Code*, note 318, s 58(1).

<sup>324</sup> *Residential Tenancies Act*, s 11(a)(i) [emphasis added].

force in Alberta”, however, might also include the common law.<sup>325</sup> If so, and if there is no agreement about notice, an employer-landlord would have to give an employee-tenant reasonable notice of termination of employment and the same notice to end a tenancy.

## 2. HOW COULD AMBIGUITY CAUSE PRACTICAL PROBLEMS?

[481] The ambiguities could cause some practical problems.

[482] If section 11 of the *Residential Tenancies Act* includes reasonable notice at common law, it would be very difficult to determine what the notice period is. It is difficult to predict the reasonable notice period for terminating employment in advance. If the dispute goes to court, no one can be sure of the reasonable notice period until a judge makes a decision.

[483] There is a possibility that employer-landlords and employee-tenants could be involved in different proceedings that raise similar questions. An employee who believes they did not receive reasonable notice of termination of their employment might sue in court for wrongful dismissal. At the same time, there might be an RTDRS application to determine when their tenancy ends. The court and RTDRS might both have to decide what notice the employee should have received, raising the possibility of inconsistent decisions.

[484] Another practical problem is about remedies. In employment law, a failure to provide reasonable notice of termination can usually be fixed with money. If an employer does not provide reasonable notice, they can instead pay the amount the employee would have earned during the notice period. If a landlord does not give the required notice to end a tenancy, it is not as easy to fix the problem with money. Money may not solve the problems that come with losing housing suddenly.

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<sup>325</sup> The minimum notice periods in the *Employment Standards Code* do not affect entitlement to reasonable notice at common law: *Employment Standards Code*, note 318, s 3(1). Alberta courts have often stated that employees have common law rights in addition to the ones in legislation: see eg *Holm v AGAT Laboratories Ltd*, 2018 ABCA 23 at paras 6-7. In other contexts, courts have said that the phrase “any law in force in Alberta” includes the common law: see eg *Kew Ridge Road Utility Ltd. v Miles*, 2016 ABCA 317 at para 18; *Germain v Brar*, 2010 ABQB 530 at para 28; *Liberty Mortgage Services Ltd. v Canada (National Revenue)*, 2012 ABCA 225 at paras 9-14, 30-33.

Further, it is hard to say what the damages should be. Unlike employment law, there is not a well-established formula for calculating what a person loses when they lose their home.

## **ISSUE 24**

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How could legislation clarify the notice period for ending an employee tenancy?



## CHAPTER 11

# Other Ways a Tenancy Ends

## A. Introduction

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[485] A landlord or tenant who does not want to continue a tenancy but does not have a reason to end the tenancy following the legislation may have some practical options. This chapter discusses those options and a few other ways that tenancies end.

## B. By Agreement

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[486] Although the *Residential Tenancies Act* does not clearly say it, a landlord and tenant may agree to end a tenancy at any time. A landlord and tenant may agree to things not specifically mentioned in the *Residential Tenancies Act*, as long as the agreement does not take away rights, benefits, or protections that the legislation provides to a tenant.<sup>326</sup>

[487] A landlord and tenant could agree to end a periodic tenancy for a reason other than the ones allowed by legislation or with less notice than the legislation requires. They could end a fixed term tenancy early. There is no particular process they must follow. An agreement could be written, oral, or implied. An oral or implied agreement to end a tenancy may have the same problems as an oral or implied residential tenancy agreement. Problems can arise if a landlord and tenant disagree about the terms of the agreement or do not remember exactly what they discussed.

[488] For tenants, ending a tenancy by agreement is most useful if they want to end a fixed term tenancy or a yearly periodic tenancy early. Tenants with weekly or monthly periodic tenancies can end a tenancy on relatively short notice without the landlord's agreement. All they have to do is provide notice: one week for a weekly tenancy or one month for a monthly tenancy. In contrast, a tenant with a fixed term or yearly periodic tenancy must wait until the end date or end of the tenancy year to end the tenancy without the landlord's agreement.

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<sup>326</sup> An agreement must meet other general requirements that apply to all contracts. Among other things, both parties must consent freely and voluntarily.

[489] If a tenant with a fixed term or yearly periodic tenancy does not want to wait until the end date or end of the tenancy year, they could ask the landlord to agree to end the tenancy early. Sometimes a landlord will simply agree. Other times a landlord will agree if the tenant provides something in exchange. For example, a landlord might agree to end a tenancy early if the tenant pays a lease break fee.

[490] For landlords, the option to end a tenancy by agreement is useful if the landlord wants to end a fixed term tenancy early, does not have one of the reasons to end a periodic tenancy, or wants to end a periodic tenancy with less notice than the *Residential Tenancies Act* requires. A landlord might offer something to the tenant, often money, in exchange for the tenant's agreement. These kinds of deals are sometimes called "cash for keys".

[491] It might be helpful if the *Residential Tenancies Act* mentioned the possibility of ending a tenancy by agreement or provided some guidance to landlords and tenants.

## ISSUE 25

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How could legislation clarify how landlords and tenants may end a tenancy by agreement?

### C. Assignment or Sublease

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[492] A tenant who wants to move out could try to assign the tenancy or sublease the home. It often comes up in fixed term tenancies. If a tenant's circumstances change or they want to move out before the end date of a fixed term tenancy, they may try to assign or sublease. In either case, the tenant must find someone else who wants to rent the home. Then they must seek the landlord's consent to the assignment or sublease. The assignment or sublease is valid if the landlord consents in writing.<sup>327</sup>

[493] The *Residential Tenancies Act* does not define assignment or sublease or explain the differences.

[494] Assignment does not technically end the tenancy but it allows the original tenant to transfer all their obligations to another person (the assignee). The assignee permanently replaces the original tenant, so the landlord and the

<sup>327</sup> *Residential Tenancies Act*, s 22.

assignee are the parties to the residential tenancy agreement. The original tenant has no further obligations to the landlord. For a tenant with a fixed term tenancy, assignment is one of the few ways they can end their obligations before the end date. In particular, the original tenant no longer has to pay rent because the assignee is responsible to pay rent to the landlord.

[495] A sublease is different from assignment because the original tenant remains a tenant, with rights and responsibilities under the residential tenancy agreement. The original tenant makes a separate agreement with another person (the subtenant) to rent the home. The original tenant is still responsible to pay rent to the landlord but the original tenant can collect rent from the subtenant. The original tenant and subtenant can negotiate the rent and other terms of the sublease. The rent a subtenant pays could be more, less, or the same as the rent the original tenant pays the landlord. The original tenant remains responsible to the landlord for any breach of the residential tenancy agreement.

[496] There are some issues that can come up with assignments or subleases. We discussed them in another report in this series.<sup>328</sup>

## **D. Selling the Home**

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[497] A landlord may sell a home during a tenancy. Usually the original owner assigns the residential tenancy agreement to the purchaser. The purchaser becomes the landlord with all the landlord's rights and obligations.

[498] Another report in this series discusses issues about assignment and the transfer of responsibilities when landlords change.<sup>329</sup>

## **E. Repudiation and Abandonment**

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[499] Sometimes a tenant who wants to end a tenancy does not follow the rules in legislation. Instead, they just act as if the tenancy is over and stop fulfilling their obligations. Often they move out. The landlord then has to decide if the tenant has repudiated the tenancy, abandoned the home, or both.

Repudiation and abandonment are important concepts with serious consequences. If a landlord determines a tenant has repudiated a tenancy or

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<sup>328</sup> *Residential Tenancies Act: General Issues* at paras 411-416.

<sup>329</sup> *Residential Tenancies Act: General Issues* at paras 426-430.

abandoned a home, the *Residential Tenancies Act* allows the landlord to take certain actions immediately. A landlord may:

- enter the home without consent or notice,<sup>330</sup>
- conclude the tenant has given up possession of the home, allowing the landlord to retake possession,<sup>331</sup>
- remove a tenant's belongings from the home,<sup>332</sup> and
- take steps to remove anyone living in the home.<sup>333</sup>

[500] Usually a landlord decides on their own whether a tenant has repudiated a tenancy or abandoned a home. They do not need to apply to court or RTDRS or seek permission from any other tribunal or agency before taking action.

[501] Neither repudiation nor abandonment are defined in the *Residential Tenancies Act*. The legislation does not say how a landlord should determine if a tenant has repudiated a tenancy or abandoned a home. Neither legislation nor case law provides a formula or clear rules a landlord should apply.

[502] Without definitions, it is hard to say how repudiation and abandonment are related.<sup>334</sup> In practice, it seems that repudiation almost always overlaps with abandonment. If a tenant moves out of a home and stops paying rent, a landlord may assume they have both repudiated the tenancy and abandoned the home.

## 1. WHAT IS REPUDIATION?

[503] In contract law, repudiation means that a party to the contract says or demonstrates that they do not intend to be bound by the contract.<sup>335</sup> If one party

<sup>330</sup> *Residential Tenancies Act*, s 23(2)(b).

<sup>331</sup> *Residential Tenancies Act*, s 1(4); see also *Residential Tenancies Act*, s 27(1)(a).

<sup>332</sup> *Residential Tenancies Act*, s 31(1). There are rules a landlord must follow, as discussed in Chapter 12.

<sup>333</sup> *Residential Tenancies Act*, s 33(1).

<sup>334</sup> One section suggests abandonment is a kind of repudiation: *Residential Tenancies Act*, s 27:

27(1) If a tenant by abandonment of the residential premises or otherwise gives the landlord reasonable grounds to believe that the tenant has repudiated the residential tenancy agreement, the landlord may either

(a) accept the repudiation as a termination of the tenancy, or  
(b) refuse to accept the repudiation and continue the tenancy.

In the only other section mentioning them together, the relationship is not clearly described: see *Residential Tenancies Act*, s 1(4). Elsewhere, repudiation and abandonment are mentioned separately: see *Residential Tenancies Act*, ss 23(2), 31(1), 33, 38.

<sup>335</sup> See generally SM Waddams, *The Law of Contracts*, 6th ed (Toronto: Canada Law Book, 2010) at paras 617-623. See also *Guarantee Co of North America v Gordon Capital Group*, [1999] 3 SCR 423 at para 40.

repudiates the contract, the other has a choice. They may accept the repudiation, which ends the contract and releases both parties from their obligations. The other option is to refuse to accept the repudiation. In that case, the contract remains in effect and both parties should perform their obligations. If one does not, the other may seek damages or other remedies for breach of the contract.

[504] Section 27 describes the consequences of repudiation. It reflects the general law, with some details relevant to residential tenancies. It has been part of the legislation since 1979.<sup>336</sup> It was based on recommendations ALRI made in its 1977 report.<sup>337</sup>

[505] Section 27 is complex. The Ministerial Advisory Committee on Residential Tenancies “heard submissions that the present provision in the Act regarding repudiation was too complex for landlords and tenants to understand.”<sup>338</sup> Nonetheless, the committee recommended against change. It wrote that repudiation “is a complex area of law. Those complexities cannot be adequately addressed without the Act in its present form.”<sup>339</sup>

[506] It may be time to reconsider whether rules about repudiation of a tenancy could be simplified. A landlord’s choice makes very little practical difference. If they accept a tenant’s repudiation, they may seek damages “for the loss of the benefit of the residential tenancy agreement.”<sup>340</sup> Usually, that is the rent they would have received if the tenant had followed the rules for ending a tenancy without a breach. If they do not accept a tenant’s repudiation, they may “recover rent accruing under the residential tenancy agreement” until it ends.<sup>341</sup> In either case, the landlord must “make reasonable efforts to mitigate” the damages or the tenant’s liability for rent.<sup>342</sup> In most cases, that means they should try to rent the home to another tenant. Simplifying the legislation might mean departing from the common law but it seems it could be done without changing outcomes.

[507] Section 38 says a tenant may repudiate a residential tenancy agreement if a landlord commits certain breaches at the beginning of a tenancy.<sup>343</sup> There are some particular problems with this section. It does not say how a tenant could

<sup>336</sup> *The Landlord and Tenant Act*, 1979, note 22, s 21.

<sup>337</sup> See *Residential Tenancies 1977* at 58-61, 66-67.

<sup>338</sup> *Achieving a Balance* at 95-96.

<sup>339</sup> *Achieving a Balance* at 96.

<sup>340</sup> *Residential Tenancies Act*, s 27(3)(b).

<sup>341</sup> *Residential Tenancies Act*, s 27(7).

<sup>342</sup> *Residential Tenancies Act*, ss 27(4), (5).

<sup>343</sup> *Residential Tenancies Act*, s 38.

repudiate the tenancy or whether they have to inform the landlord. Should a tenant provide some kind of notice if they repudiate a tenancy at the beginning? It is also unclear if section 27 applies in these situations. Does the landlord have the choice to accept or refuse the repudiation? If a tenant repudiates a tenancy because a landlord breaches their obligations at the beginning of the tenancy, can the landlord still recover damages?

## 2. WHAT IS ABANDONMENT?

[508] Some participants in our consultation wanted to see more specific rules about when a landlord may consider a home abandoned. It can be hard for a landlord to know if a tenant has left a home or intends to return. Some reported cases also raise the issue. In one RTDRS case, for example, a tenancy dispute officer wrote:<sup>344</sup>

I acknowledge that the RTA is unfortunately rather lacking in plain language guidance on when a landlord can retake possession of a rental premises after they have grounds to believe that a tenant has abandoned it.

[509] The legislation does not include any guidance about how a landlord can tell if a tenant has abandoned a home. There are examples in case law but we have not found a consistent list of factors that courts or RTDRS always consider.

[510] The *Residential Tenancies Act* does not say what a landlord should do if they suspect a tenant has abandoned the home. We heard that some landlords post a notice on the door of a home if they believe it is abandoned, giving notice that they will enter and retake possession on a certain date. Case law suggests a landlord should also try to contact a tenant another way, such as phone or text message. Although these are common sense steps, the legislation does not require landlords to do them or anything else.

[511] If a landlord incorrectly assumes a tenant has abandoned a home, it can cause significant hardship to tenants. They may lose their home and often their belongings. A few examples from cases illustrate the problems.

[512] In *Krause v Bonin*, a tenant did not pay her rent on 1 August.<sup>345</sup> The landlord was unable to contact her. On 6 August, the landlord posted a notice on her door. On 9 August, another tenant complained about an odour coming from

<sup>344</sup> *Re 19008905*, 2021 ABRTDRS 7. See also *Wilderdijk-Streutker v Zhao*, 2017 ABPC 24 at paras 61-62 [*Wilderdijk-Streutker*].

<sup>345</sup> *Krause v Bonin*, 2011 ABPC 171 [*Krause*].

the home. The landlord entered and found some spoiled food. The next day, on 10 August, the landlord changed the locks. On 12 August, the landlord removed all the tenant's belongings from the home. As it turned out, the tenant had been away from home while giving birth. She returned to her home on 10 August but could not get in because the landlord had changed the locks. She met with the landlord some time later. He would not return her belongings until she paid for moving and storage costs. The landlord eventually disposed of all the tenant's belongings. The tenant and her newborn lost their home and "virtually all of her worldly goods, including those she was relying on to take care of her newborn."<sup>346</sup> A court found the landlord should not have retaken possession of the home so hastily and he had acted wrongfully when he took and disposed of her belongings.

[513] In *Pena v Phipps*, the tenants – a couple with children – left on a long trip.<sup>347</sup> The tenants arranged for other people to visit the home and take care of it while they were away. One of the tenants said he had told the landlord they would return on March 3 and pay rent when they returned but the landlord had a different recollection of the conversation. He expected they would return on 5 January and pay rent then. When the tenants did not return or pay rent in early January, the landlord visited the home several times and eventually entered on 22 January. He tried to phone one of the tenants but the phone number was not in service. On 26 January, the landlord moved all the tenants' belongings out of the home and changed the locks. The tenants later recovered their belongings but most things were damaged and some things were missing, including items their children used. A court found it was not reasonable for the landlord to conclude the home was abandoned. It was furnished and there were signs someone had been there recently. The landlord acted wrongfully when he removed the tenant's belongings.

[514] In *Wilderdijk-Streutker v Zhao*, a tenant told a landlord she wanted to end a fixed term tenancy early.<sup>348</sup> The end date was 31 May but the tenant told the landlord she and her family would move all of their belongings out of the home by 31 December. The tenant had already given the landlord post-dated cheques for rent up to the end of December. On 14 November the tenant told the landlord the home was ready to show to potential tenants and asked the landlord "not to disrupt the boxes in the garage that contained personal property belonging to the

<sup>346</sup> Krause, note 345 at para 29.

<sup>347</sup> *Pena v Phipps*, 2014 ABPC 106 [*Pena*].

<sup>348</sup> *Wilderdijk-Streutker*, note 344.

Tenant and her family.”<sup>349</sup> On 25 and 28 November, the landlord emailed the tenant but the tenant did not respond. The tenant gave birth on 25 November and was in the hospital until 4 December. The landlord did not try to phone the tenant. On 2 December, the landlord sent a letter to the tenant to say that she considered the home to be abandoned. The landlord rented the home to new tenants who moved in on 3 December. The tenant only received the landlord’s letter on 5 December. She emailed the landlord the same day and her husband went to the home. He found that some of the property they had stored in the garage was gone. The landlord disposed of property including “the Tenant’s confidential work files, some electronic equipment, her husband’s diving gear, children’s toys, family mementos that were of sentimental value, clothing, books and various household items.”<sup>350</sup> A court found it was unreasonable for the landlord to act as if the tenant had abandoned the home. The landlord had breached the residential tenancy agreement and the *Residential Tenancies Act* and therefore she acted unlawfully when she removed the tenant’s belongings.

[515] There may also be negative consequences for a landlord who jumps to the conclusion that a tenant has abandoned a home. If the tenant makes a claim, the landlord may have to pay damages. In *Krause v Bonin*, the landlord had to pay the tenant \$4,000 as compensation for lost property, plus interest, and a further \$2,000 as general damages.<sup>351</sup> The landlord also had to return part of the security deposit. In *Pena v Phipps*, after setting off amounts the tenants owed the landlord, the landlord had to pay net judgment of \$7,593 to the tenants, plus costs.<sup>352</sup> In *Wilderdijk-Streutker v Zhao*, the landlord had to pay the tenant \$10,050 plus interest and costs.<sup>353</sup> The damages included \$2,500 in general damages to compensate the tenant for distress and inconvenience and \$2,900 as punitive damages.

[516] It is also risky for a landlord to wait too long to take action. In *Re 21000325*, for example, a landlord gave a tenant notice to terminate a tenancy.<sup>354</sup> The tenant moved out on 12 December without returning the keys or informing the landlord they had left. The landlord assumed the tenant was still living in the home but did not investigate. The landlord did not enter the home or inspect it until 19 February, when the fire department notified the landlord about a burst

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<sup>349</sup> *Wilderdijk-Streutker*, note 344 at para 36.

<sup>350</sup> *Wilderdijk-Streutker*, note 344 at para 55.

<sup>351</sup> *Krause*, note 345 at paras 28-30.

<sup>352</sup> *Pena*, note 347 at paras 90, 101-102.

<sup>353</sup> *Wilderdijk-Streutker*, note 344 at paras 80-100.

<sup>354</sup> *Re 21000325*, 2021 ABRTDRS 11.

pipe. There was significant damage to the home. A tenancy dispute officer observed that the landlord had not taken basic steps to check on the home after terminating the tenancy. The landlord and its insurer had to cover the entire cost of repairing the damage.

[517] Without guidance about how to determine a home is abandoned, a landlord has to guess when they can enter the home, take possession, or remove a tenant's belongings. They cannot be sure whether they guessed correctly unless a dispute goes to court or RTDRS. It is only when a court or RTDRS issues a decision – sometimes long after the events have occurred – that a landlord will find out whether they made the right decision. It would be better to have clear rules that they could apply themselves, so they can avoid problems or resolve them without formal dispute resolution.

## **ISSUE 26**

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How could legislation clarify whether a tenant has repudiated a tenancy or abandoned a home?

## **F. Constructive Termination and Unlawful Eviction**

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[518] In our consultation, we heard concerns about landlords making it difficult for a tenant to continue a tenancy. Sometimes, a landlord who cannot end a tenancy legally might apply other kinds of pressure to make a tenant leave. In this report, we call it constructive termination.

### **1. HOW DOES THE LAW ADDRESS CONSTRUCTIVE TERMINATION BY RAISING RENT?**

[519] One way a landlord can pressure a tenant to leave is by raising the rent. A landlord who wants to end a tenancy might raise the rent drastically, hoping the tenant cannot pay or will choose to move to a more affordable home.<sup>355</sup> Landlords have a lot of freedom to set rent. There is no rent control in Alberta. The *Residential Tenancies Act* says nothing about the amount of rent or how much rent can be raised, although it limits how often a landlord may raise the rent and

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<sup>355</sup> Technically, a landlord cannot raise rent unilaterally. Landlords and tenants must always agree on rent: see *Residential Tenancies 1977* at 33-34. In practice, it is almost always a landlord who proposes a rent increase. The tenant can choose whether to accept or reject the increase, but to reject it they must terminate the tenancy: see *Residential Tenancies Act*, s 14(5). In effect, their options are to stay in the home and pay the increased rent or leave.

has requirements about notice.<sup>356</sup> Landlords also have to comply with other laws, like human rights legislation<sup>357</sup> or competition law.<sup>358</sup>

[520] There were many posts about rent increases in the Reddit data, including some that might have been constructive termination. There were posts mentioning large rent increases. Only some mentioned specific amounts but among them were increases of 40 and even 50 percent. Some tenants said they would be unable to pay or that after an increase, they would be using nearly all their income to pay rent. There were also examples of landlords asking whether they could use a rent increase to make a tenant leave or saying that they had increased rent hoping it would make a tenant leave.

[521] Constructive termination by raising rent is not a new problem. In its 1990 report, the Ministerial Advisory Committee on Residential Tenancies pointed out that a landlord could use a rent increase to compel a tenant to leave:<sup>359</sup>

Rent increases take on a greater significance in a landlord and tenant regime in which the tenant is provided with some measure of security of tenure. There is always the possibility that a landlord may not have legitimate cause to evict a tenant but raise the rent unreasonably in an effort to effect an eviction. If there is not some method for a tenant to address this issue, any security of tenure provided would be less effective.

[522] Since then, a method has evolved for addressing the issue in court or RTDRS. Courts have held that a landlord may not use an exorbitant rent increase to force a tenant out.<sup>360</sup> RTDRS applies the rule from these cases. If it finds a rent

<sup>356</sup> *Residential Tenancies Act*, s 14. See also *Residential Tenancies Act: Before and During a Tenancy* at paras 177, 205-217.

<sup>357</sup> A landlord may not discriminate against a tenant or a group of tenants based on a protected characteristic: see *Alberta Human Rights Act*, RSA 2000, c A-25.5, s 5(1)(b). For example, a landlord could not decide to raise rent only for tenants of a certain race or religion.

<sup>358</sup> Recently the Competition Bureau investigated the use of algorithmic pricing or revenue management software, which some landlords use to help set rent. The Competition Bureau did not find a violation of competition law but said “the Bureau remains concerned with the potential of revenue management software to substantially harm competition in the rental housing market.” It issued guidance to landlords and software providers to avoid contraventions of the *Competition Act*: Competition Bureau (Canada), “Competition Bureau position statement regarding its civil investigation into RealPage’s and Yardi’s algorithmic pricing software used in the rental housing market” (10 November 2025), online: <competition-bureau.canada.ca/en/how-we-foster-competition/education-and-outreach/competition-bureau-position-statement-regarding-its-civil-investigation-realpages-and-yardis>.

<sup>359</sup> *Achieving a Balance* at 126.

<sup>360</sup> *Milner’s Aloha Mobile Home Park (1998) Ltd v Jenkins*, 2014 ABQB 229; *Boisselle v Maple Leaf Property Management Inc*, 2024 ABCJ 35.

increase is an indirect way to end a tenancy, it may find the rent increase is invalid or grant another remedy.<sup>361</sup>

[523] Even though case law provides a remedy, it is not a complete solution. A tenant will only seek a remedy from court or RTDRS if they know it is available. We heard that many tenants do not know that there is anything they can do about a rent increase, even if they believe the landlord's motivation is to end the tenancy. They would not find out about their options from reading the legislation and probably would not find it in public legal information.<sup>362</sup> It is unlikely they would find out about it without legal advice and probably only if the person giving the advice is very familiar with residential tenancy case law. Further, case law leaves unanswered questions. For example, courts and RTDRS have not developed a formula or rule a landlord or tenants could easily apply to tell whether a rent increase is unreasonable.<sup>363</sup>

<sup>361</sup> See eg *Re 20001013*, 2020 ABRTDRS 40; *Re 23001188*, 2023 ABRTDRS 3; *Re 23013513*, 2024 ABRTDRS 6.

<sup>362</sup> In a 2014 blog post about *Milner's Aloha Mobile Home Park (1998) Ltd v Jenkins*, 2014 ABQB 229, Jonnette Watson Hamilton suggested agencies providing public legal information about residential tenancy law should revise their publications to clarify that there are some limits on rent increases: Jonnette Watson Hamilton, "Constraining a Landlord's Ability to Terminate a Residential Tenancy by Raising the Rent" (15 May 2015), online: *ABlawg* <[ablawg.ca/2014/05/15/constraining-a-landlords-ability-to-terminate-a-residential-tenancy-by-raising-the-rent/](http://ablawg.ca/2014/05/15/constraining-a-landlords-ability-to-terminate-a-residential-tenancy-by-raising-the-rent/)> [perma.cc/RT2B-UAUG]. Most of the guides she referred to in that post are no longer available. Similar guides available now do not mention the possibility that a rent increase could be constructive termination or that a tenant could seek relief from a court or RTDRS: see eg

- Service Alberta, *RTA handbook for landlords and tenants: Residential Tenancies Act and regulations* (2025) at 38, online: <[open.alberta.ca/publications/rta-handbook-for-landlords-and-tenants](http://open.alberta.ca/publications/rta-handbook-for-landlords-and-tenants)> [perma.cc/H9V9-7S87] [emphasis in original]:  
The RTA does **not** control how much rent can be charged or how much rent can be increased.
- Centre for Public Legal Education Alberta, "Rent Increases" (2024), online: <[cplea.ca/wp-content/uploads/HLIP\\_RentIncreases.pdf](http://cplea.ca/wp-content/uploads/HLIP_RentIncreases.pdf)> [perma.cc/PU2Z-T8X8]:  
For both kinds of tenancies, there is no limit on the amount that the landlord can increase the rent.
- Centre for Public Legal Education Alberta, *Renting 101: A Renting Basics Guide in Alberta* (2024) at 20, online: <[cplea.ca/wp-content/uploads/HLIP\\_Renting101.pdf](http://cplea.ca/wp-content/uploads/HLIP_Renting101.pdf)> [perma.cc/D7HK-WCF2]:  
In Alberta, the landlord can increase your rent by any amount. But the law limits how often the landlord can increase your rent.

<sup>363</sup> At least one decision suggests some factors to consider: *Re 24005138*, 2024 ABRTDRS 14. The tenancy dispute officer considered:

- Whether the relationship between the landlord and tenant, or other circumstances, show that the landlord has a motive to evict the tenant.
- Whether the rent increase is part of a broader program of rent increases the landlord is pursuing, or whether the tenant facing the rent increase is being singled out.
- The amount of the rent increase should be considered in the context of the rental rate for similar units in a similar location (particularly other similar units in the same building), and whether there is a rationale that could justify the amount of the rent increase, such as a change in the market or upgrades to the unit or building in question.

See also Jonnette Watson Hamilton, "Constraining a Landlord's Ability to Terminate a Residential Tenancy by Raising the Rent" (15 May 2015), online: *ABlawg* <[ablawg.ca/2014/05/15/constraining-a-landlords-ability-to-terminate-a-residential-tenancy-by-raising-the-rent/](http://ablawg.ca/2014/05/15/constraining-a-landlords-ability-to-terminate-a-residential-tenancy-by-raising-the-rent/)> [perma.cc/RT2B-UAUG]. The blog post points out that there is uncertainty in applying a decision based on particular facts to other facts:

*Continued*

## 2. WHAT ELSE MAY BE CONSTRUCTIVE TERMINATION?

[524] While raising rent was the type of constructive termination that came up most often in our consultation, there are other ways a landlord could pressure a tenant to end a tenancy. A landlord could do something that makes a home uncomfortable or undesirable for a tenant, like failing to address maintenance issues. In one RTDRS case, for example, a landlord did not repair a heating system in a tenant's home for months, leaving the tenant to rely on a space heater for heat. The landlord also removed the stove.<sup>364</sup> A landlord could disturb or harass a tenant.<sup>365</sup> Some things a landlord might do violate rules in the *Residential Tenancies Act* or other laws but, as discussed in Chapter 2, the consequences may not directly help a tenant.

[525] An unlawful eviction might also be a type of constructive termination. A landlord should not lock a tenant out of a home or remove their belongings without an order for recovery of possession and the assistance of a civil enforcement agency. Nonetheless, it sometimes happens and sometimes tenants lose their home as a result. There are examples in case law.<sup>366</sup> We also heard examples in our consultation and found a handful in the Reddit data.

[526] Part of the problem might be unclear legislation. As ALRI discussed in an earlier report, the *Residential Tenancies Act* does not clearly explain that a landlord must hire a civil enforcement agency to evict a tenant.<sup>367</sup>

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Singling out and tripling one mobile home park tenant's rent for the sole purpose of evicting that tenant amounted to an illegitimate termination in this case, but what about a doubling of the rent? Or a fifty per cent increase? Is it the percentage increase that was most important here? Or is it the singling out of one tenant that was key in this case? What if there are no comparables with tenants in similar premises, as there was here? Does evidence of the market have to be introduced? Or is it the fact that termination of the residential tenancy was the only motive for increase in rent? What if termination is instead the primary or only an important motive? What if evidence of motive is lacking, as it probably will be in most cases?

<sup>364</sup> *Re 19008860*, 2019 ABRTDRS 36.

<sup>365</sup> See eg *Re 20006437*, 2020 ABRTDRS 27. After a tenant paid rent late, the landlord told the tenant "You are playing games with the wrong guy ... this will get ugly very soon." The landlord entered the tenant's home repeatedly for inspections. A tenancy dispute officer found "these inspections were meant to harass the Tenant." The landlord also tried to terminate the tenancy in two other ways, claiming that the fixed term had expired and alleging the tenant has committed a substantial breach. The tenancy dispute officer did not accept the landlord's evidence and dismissed the application. See also *Re 20007505*, 2020 ABRTDRS 42. A dispute began when a tenant said she intended to move out early. The dispute escalated and the landlord told the tenant she had 24 hours to move out. If she did not leave, he would come the next day with his brother, a police officer. He told the tenant his brother would criminally charge her if she was still in the home.

<sup>366</sup> See eg *Gregory v Scott*, 2020 ABPC 8; *Re 19000958*, 2019 ABRTDRS 31; *Re 20001376*, 2020 ABRTDRS 15; *Re 21010088*, 2022 ABRTDRS 16; *Re 23001275*, 2023 ABRTDRS 16; *Re 25013819*, 2025 ABRTDRS 21.

<sup>367</sup> *Residential Tenancies: General Issues* at paras 206, 210-211.

## ISSUE 27

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Should legislation explain or clarify how to avoid or respond to constructive termination?

### G. Frustration, Including Public Health Orders

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[527] A tenancy may end by frustration. In particular, it can end if:<sup>368</sup>

- the home is destroyed;
- the home or another part of the property is damaged to the point that it would not be reasonable for the landlord to repair it or for a tenant to continue renting;
- a public health inspector makes an order closing the home for accommodation or declaring it unfit for human habitation;<sup>369</sup> or
- the home is “in a condition that contravenes an enactment that regulates health and safety in housing accommodation” and the problem is not resolved.

[528] When a tenancy is frustrated, it ends abruptly. The landlord and tenant have no further obligations to each other. The tenant no longer has to pay rent but must leave.

[529] Frustration is probably uncommon but on occasion it may affect many people at once. Wildfire, widespread flooding, or other natural disasters may

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<sup>368</sup> *Residential Tenancies Act*, s 40(1):

40(1) A residential tenancy agreement is frustrated if

- (a) the residential premises that are the subject of the residential tenancy agreement are destroyed,
- (b) the residential premises, the common areas or the property of which they form a part are damaged to such an extent that
  - (i) a reasonable landlord would not repair the damage, or
  - (ii) a reasonable tenant would not be willing to remain as a tenant,
- (c) an order is made under section 62 of the *Public Health Act* that closes the residential premises, declares the residential premises unfit for habitation or otherwise operates so as to make the continuation of the tenancy practically impossible, or
- (d) the residential premises, the common areas or the property of which they form a part are in a condition that contravenes an enactment that regulates health and safety in housing accommodation, and the condition is not remedied in accordance with that enactment.

<sup>369</sup> There is a small discrepancy in wording. The *Residential Tenancies Act* uses the phrase “unfit for habitation.” The *Public Health Act* uses the phrase “unfit for human habitation”: compare *Residential Tenancies Act*, s 40(1)(c); *Public Health Act* note 186, s 62(4)(b).

destroy or damage many homes in a community.<sup>370</sup> An issue in a large building with many homes may affect many people.<sup>371</sup>

[530] In consultation, we heard particular concerns about tenancies ending due to orders closing a home for accommodation or declaring a home unfit for human habitation. These orders can mean a tenant loses their home suddenly. While we heard that inspectors consider the impact on tenants when making orders, tenants can experience significant hardship when they are ordered to leave the home. We heard that tenants may hesitate to report concerns to public health authorities for fear of losing their home.<sup>372</sup>

## 1. WHAT IS FRUSTRATION?

[531] Frustration is a concept that comes from contract law. Frustration occurs if it becomes impossible or impractical for a person to fulfill their obligations under a contract, although there is no breach of the contract. Usually it is because circumstances change after the parties make a contract. If the change was outside the control of both parties and it is no longer feasible to continue with their original contract, the contract may be frustrated. As one writer says, frustration applies if “the occurrence of an event that makes performance impossible, impracticable, or ‘fundamentally’ different from what the parties expected.”<sup>373</sup> When a contract is frustrated, both parties are released from their obligations. In other words, the contract ends.

[532] It was not always clear if or how frustration applied to residential tenancy agreements. In its 1977 report, ALRI recommended removing any doubt by adding clear statements to legislation, saying a residential tenancy would be frustrated if the home was destroyed or “damaged to such an extent that a reasonable landlord would not repair the damaged property or a reasonable

<sup>370</sup> See eg Jack Farrell, “Jasper housing aid limited, council hears; About 2,000 people have lost homes, municipality says” *Edmonton Journal* (12 September 2024) A5.

<sup>371</sup> See eg Leo Cruzat, “Canora apartment fire displaces 22 people: Edmonton firefighters” *CityNews* (13 November 2025), online: <edmonton.citynews.ca/2025/11/13/canora-apartment-fire/> [perma.cc/88D2-4AVF]; Carly Stagg, “Word of ‘possible imminent building collapse’ triggers evacuation of Calgary apartment block” *CBC News* (23 November 2017), online: <cbc.ca/news/canada/calgary/kensington-apartment-building-evacuation-1.4417194> [perma.cc/3ZSV-AUV2].

<sup>372</sup> See *Residential Tenancies Act: Before and During a Tenancy* at paras 385-386.

<sup>373</sup> Angela Swan, *Canadian Contract Law*, 4th ed (Toronto, Ont: LexisNexis, 2018) at para 8.475. See also *Davis Contractors Ltd v Fareham UDC*, [1956] UKHL 3, [1956] AC 696 at 729, Radcliffe LJ:

[F]rustration occurs whenever the law recognizes that without default of either party a contractual obligation has become incapable of being performed because the circumstances in which performance is called for would render it a thing radically different from that which was undertaken by the contract.

tenant would not remain as a tenant.”<sup>374</sup> The legislature implemented this recommendation, adding the statements in 1979.<sup>375</sup>

[533] When the legislature adopted a new version of the *Residential Tenancies Act* in 2004, it added two more ways a residential tenancy agreement may be frustrated. The legislation now said a tenancy could be frustrated by a public health order closing the home or declaring it unfit for human habitation, or if the home “is in a condition that contravenes an enactment that regulates health and safety in housing accommodation, and the condition is not remedied in accordance with that enactment.”<sup>376</sup>

[534] There are several questions one might ask about the list of ways a residential tenancy agreement may be frustrated.

[535] First, is it a complete list? Are there other circumstances or events that may frustrate a residential tenancy agreement, although they are not listed in legislation? This question has occasionally come up in cases. For example, some landlords have argued that frustration may apply if a home does not comply with municipal zoning bylaws.<sup>377</sup> A related question is about the scope of “an enactment that regulates health and safety in housing accommodation.” It almost certainly includes the *Public Health Act* and the *Safety Codes Act*. Is it broad enough to include other laws, like municipal bylaws?

[536] Second, does the legislation replace common law rules? There are some particular questions about the last two types of frustration, which were added in 2004. Usually frustration applies only when a change occurs after the parties made the agreement and neither party caused the change. Would frustration apply if a home’s condition did not meet minimum requirements before the tenancy began?<sup>378</sup> Would frustration apply if a landlord could remedy violations of the *Minimum Housing and Health Standards* but does not, leading to an order closing the home or declaring it unfit for human habitation?<sup>379</sup>

<sup>374</sup> *Residential Tenancies* 1977 at 68-70.

<sup>375</sup> *The Landlord and Tenant Act*, 1979, note 22, s 32(1).

<sup>376</sup> *Residential Tenancies Act*, s 40(1)(d).

<sup>377</sup> See eg *Re 20004536*, 2020 ABRTDRS 31. See also *Re 19008860*, 2019 ABRTDRS 36; *Coon v Beck*, 1999 ABQB 140.

<sup>378</sup> See eg *Re 20004536*, 2020 ABRTDRS 31.

<sup>379</sup> See eg *Re 19010130*, 2020 ABRTDRS 12:

In fact, AHS conducted at least three inspections before effectively rendering the premises uninhabitable through a Closure Order. Apparently, that Order was issued not because the premises was unfit for

*Continued*

## 2. WHAT HAPPENS IF A TENANCY IS FRUSTRATED?

[537] The *Residential Tenancies Act* says very little about what happens if a residential tenancy agreement is frustrated. Section 40(2) says:<sup>380</sup>

40(2) The law pertaining to frustration of a contract applies with respect to a residential tenancy agreement that is frustrated.

[538] To find out what happens next, a reader would have to consult other sources, like law textbooks, case law, and other legislation. While people with legal training usually know how to find these sources, it could be difficult for many landlords and tenants.

[539] The legislation does not say what a landlord or tenant should do if they believe a tenancy has been frustrated. They might apply to a court or RTDRS for an order confirming that the tenancy has ended, but is it necessary?<sup>381</sup> It is probably a good idea to confirm that the tenancy has ended by frustration. If there is no dispute, however, it seems inefficient to require a landlord or tenant to apply to court or RTDRS. It might be helpful if there was a simple procedure a landlord or tenant could use to confirm that a tenancy has ended by frustration, like providing a written notice.

[540] There is also very little guidance about practical issues that may arise after a tenancy has ended by frustration. For example:

- When and how does a tenant's possession of the home end? Possession affects who can enter the home and what procedures they must follow. If a tenant remains in possession of the home, the landlord may need to seek the tenant's consent or provide notice to enter the home. If the landlord has possession of the home, the tenant may need to inform or ask the landlord if they want to enter the home. It is likely to come up if the tenant wants to retrieve belongings in the home.

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habitation but because of a failure on the Landlord's part to take timely action to remedy a number of relatively minor violations of minimum housing standards.

See also *Re 20004536*, 2020 ABRTDRS 31:

I had never before considered that frustration of a tenancy agreement could be the necessary outcome of a landlord declining to take even the most basic steps to remedy non-compliance with a health and safety enactment. In my mind, frustration of a tenancy agreement requires an impediment to continuing the tenancy that is impossible or unreasonable to remedy.

<sup>380</sup> *Residential Tenancies Act*, s 40(2).

<sup>381</sup> See eg *Re 20004536*, 2020 ABRTDRS 31. See also BC Act, note 134, s 56.1.

- If a tenant has belongings in the home when the tenancy is frustrated, how long does the tenant have to remove them? When can a landlord treat any belongings remaining as abandoned goods?
- What happens to any money that a landlord or a tenant has already paid or owes to the other?<sup>382</sup> For example, if a home is destroyed midway through a tenancy month does a landlord have to refund any part of the rent for that month? How should landlords and tenant account for or adjust any utility payments?

[541] Usually parties do not have any obligations to each other after a contract is frustrated. One might ask, however, if a landlord should have some obligation to help a tenant who loses their home suddenly, especially if the landlord has the ability to help. For example, if a landlord owns or manages other homes and has a vacant home available for rent, should they have to offer it to the tenant? A tenant who loses their home suddenly may have unexpected expenses, like temporary accommodation and moving costs. Should a landlord be responsible for any of those expenses?<sup>383</sup>

## ISSUE 28

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How could legislation clarify what landlords or tenants should do if a tenancy is frustrated?

<sup>382</sup> The *Frustrated Contracts Act* has general rules but it would be difficult for landlords or tenants to apply them. The legislation is difficult to understand and requires a detailed analysis of the facts in each case: see *Frustrated Contracts Act*, RSA 2000, c F-27, ss 3, 4, 5. For example, section 3 reads:

- 3 The sums paid or payable to a party, in pursuance of a contract before the parties were discharged,
- (a) in the case of sums paid, are recoverable from that party as money received by that party for the use of the party by whom the sums were paid, and
  - (b) in the case of sums payable, cease to be payable.

<sup>383</sup> Some case law suggests a landlord may be responsible for a tenant's expenses if the tenant has to move out because of a public health order: see eg *Re 19010130*, 2020 ABRTDRS 12. A tenancy ended abruptly when a public health inspector issued a closure order. An earlier inspection had resulted in an order requiring the landlord to fix a long list of issues. The landlord did not complete repairs by the deadline in the first order, leading to the closure order. The tenant stayed in a hotel until he found a new home to rent. The tenancy dispute officer found "the Landlord is liable for the extra cost of alternative accommodation from the issuance of the Closure Order ... for a reasonable period of time until the Tenant found a new place to live." The tenancy dispute officer awarded the tenant the difference between the amount he would have paid in rent and the amount he paid for a hotel, plus an amount for the additional cost of eating meals at restaurants instead of groceries to cook at home.

## H. Death of a Tenant

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[542] In consultation, we heard that landlords are often unsure what to do if a tenant dies.

[543] The *Residential Tenancies Act* says almost nothing about the death of a tenant. There are some hints that a tenancy may continue after the tenant's death. The definition of tenant includes "an heir, assign, or personal representative" of a tenant, which might suggest the tenancy continues with an heir or personal representative taking the place of the original tenant.<sup>384</sup>

[544] Other legislation also assumes the tenancy continues, at least for a transition period. The *Wills and Succession Act* allows a tenant's surviving spouse or adult interdependent partner to stay in a home for a period after the tenant's death.<sup>385</sup> If a tenant's spouse or adult interdependent partner lived in the home but was not a tenant, the surviving spouse or partner may continue to live there for up to 90 days. The *Wills and Succession Act* says that the surviving spouse or partner has most of the rights and obligations of a tenant but the deceased tenant's estate is responsible to pay rent. During that period, if the landlord wants to apply for an order terminating a tenancy, an order for recovery of possession, or another remedy, the landlord would have to make the application in the Court of King's Bench.<sup>386</sup>

[545] These rules rely on an heir or personal representative to act on behalf of the tenant's estate and assume the tenant's obligations. A personal representative appointed by the deceased's will can usually act immediately but it would require that the deceased tenant had a valid will when they died, that the will appointed a personal representative, that the will is quickly located after the tenant's death, and that the personal representative is able and willing to administer the estate. It is not always the case. Among other things, many people do not have wills.<sup>387</sup>

[546] If the deceased tenant did not have a will or if the person who intends to administer the estate was not appointed by their will, it takes time before anyone

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<sup>384</sup> *Residential Tenancies Act*, s 1(1)(t)(iii).

<sup>385</sup> *Wills and Succession Act*, SA 2010, c W-12.2, s 75.

<sup>386</sup> *Residential Tenancies Act*, s 29.1.

<sup>387</sup> ALRI conducted an online survey about wills in 2022. Only about half of respondents said they had a will. Approximately 47% of respondents said they had a will and 53% said they did not: Alberta Law Reform Institute, *Creation of Electronic Wills: 2022 Consultation Summary* (2023) at 4, online: <[alri.ualberta.ca/2023/10/electronic-wills-recommendations-summary/](https://alri.ualberta.ca/2023/10/electronic-wills-recommendations-summary/)>.

can act on behalf of the estate. Usually someone must apply to court for an order appointing a personal representative. It may be weeks or months before the appointment is confirmed. In the meantime, no one has the authority to deal with the tenant's money or other property. There is no one who can deal with the landlord on behalf of the estate, use the tenant's money or access their bank account to pay the rent or other bills, or distribute or dispose of the tenant's belongings.

[547] These rules also assume that there will be money in a deceased tenant's estate to pay the rent but there may not be. In consultation, we heard concerns that a deceased tenant may not leave enough money for the estate to pay rent even for the 90 days that a spouse or partner should be able to stay in the home.

[548] In the meantime, a landlord may be left in limbo. They may not know who, if anyone, is authorized to administer the tenant's estate. They may not know if they will receive any rent or if and when someone will remove the tenant's belongings from the home. They may be uncertain when they will be able to rent the home to another tenant.

[549] We heard that in some cases, landlords cannot contact or do not get information from family members, heirs, or anyone dealing with the tenant's estate. In those situations, a landlord might proceed as if the tenant abandoned the home.

[550] Other jurisdictions have legislation that says what happens after the death of a tenant.<sup>388</sup> Ontario's legislation anticipates the possibility that there may not be a personal representative and in that situation, says a landlord may allow a family member of the tenant to remove the tenant's property.<sup>389</sup>

## ISSUE 29

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Should legislation include rules about what should happen after the death of a tenant?

<sup>388</sup> See eg Manitoba Act, note 139, s 93; Ontario Act, note 139, s 91.

<sup>389</sup> Ontario Act, note 139, s 91:

91(1) If a tenant of a rental unit dies and there are no other tenants of the rental unit, the tenancy shall be deemed to be terminated 30 days after the death of the tenant.

(2) The landlord shall, until the tenancy is terminated under subsection (1),

(a) preserve any property of a tenant who has died that is in the rental unit or the residential complex other than property that is unsafe or unhygienic; and

(b) afford the executor or administrator of the tenant's estate, or if there is no executor or administrator, a member of the tenant's family reasonable access to the rental unit and the residential complex for the purpose of removing the tenant's property.

## I. Ending a Tenancy in Special Situations

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[551] There are a few other ways a tenancy may end. Some of them are in other legislation. All of them are closely connected with topics outside the scope of this project.

[552] We heard very little about these ways of ending a tenancy in our consultation. We have not identified any specific issues. If there are issues with any of these reasons for ending a tenancy, they should be considered in the context of other relevant legislation and policies.

[553] In an earlier report, ALRI asked if the *Residential Tenancies Act* should mention rules in other legislation affecting residential tenancies.<sup>390</sup> It might make it easier to find other rules, including these special rules about ending tenancies.

### 1. STUDENT HOUSING

[554] Educational institutions often provide student housing. The *Residential Tenancies Act* applies only if a student has “exclusive possession of a self-contained dwelling unit.”<sup>391</sup> If the *Residential Tenancies Act* applies, an educational institution may end a periodic tenancy when a tenant is no longer a student.<sup>392</sup>

### 2. SUBSIDIZED PUBLIC HOUSING

[555] Certain kinds of social or affordable housing are regulated by both the *Residential Tenancies Act* and the *Alberta Housing Act* or the *National Housing Act*. The *Residential Tenancies Act* calls them subsidized public housing.<sup>393</sup>

[556] There are some exceptions or special rules that apply only to subsidized public housing.<sup>394</sup> In addition to the reasons in the *Residential Tenancies Act* and the *Residential Tenancies Ministerial Regulation*, a landlord may end a periodic tenancy in subsidized public housing if:

<sup>390</sup> *Residential Tenancies Act: General Issues* at 64, Issue 13.

<sup>391</sup> *Residential Tenancies Act*, s 2(2)(e).

<sup>392</sup> *Residential Tenancies Ministerial Regulation*, s 2(2)(e)

<sup>393</sup> *Residential Tenancies Act*, s 1(1)(o).

<sup>394</sup> See *Residential Tenancies Act*, s 69; *Alberta Housing Act*, RSA 2000, c A-25, s 34(1)(i), 34(2); *Housing Accommodation Tenancies Regulation*, Alta Reg 242/1994, *Subsidized Public Housing Regulation*, Alta Reg 191/2004 [*Subsidized Public Housing Regulation*].

- the tenant no longer qualifies for subsidized public housing because of their income (ie, they do not meet the eligibility criteria because their income is too high),<sup>395</sup>
- “the tenant has not reported or has misreported income or other information required under the residential tenancy agreement”,<sup>396</sup> or
- public funding for the subsidized public housing program is cancelled.<sup>397</sup>

### 3. TERMINATION BY CONDOMINIUM CORPORATION

[557] If a tenant rents a condominium unit, the condominium corporation has some powers to end a tenancy. The corporation may use these powers if the tenant causes damage, breaks condominium bylaws, or endangers other residents.<sup>398</sup>

### 4. TERMINATION UNDER THE SAFER COMMUNITIES AND NEIGHBOURHOODS ACT

[558] The *Safer Communities and Neighbourhoods Act* gives a court powers to end a tenancy in some circumstances. If crime or drug activities in a home affect neighbours, a court may make a community safety order. Among other things, the order may end a tenancy.<sup>399</sup>

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<sup>395</sup> *Subsidized Public Housing Regulation*, note 394, s 2(a).

<sup>396</sup> *Subsidized Public Housing Regulation*, note 394, s 2(b).

<sup>397</sup> *Subsidized Public Housing Regulation*, note 394, s 2(c).

<sup>398</sup> *Condominium Property Act*, RSA 2000, c C-22, ss 54-57.

<sup>399</sup> *Safer Communities and Neighbourhoods Act*, SA 2007, c S-05., ss 7(3)(b), 35.



## CHAPTER 12

# After a Tenancy

## A. What Happens When a Tenancy Ends?

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[559] When a tenancy ends, the landlord and tenant have to complete some final steps and may have some remaining issues to resolve.

[560] Some of the things landlords and tenants do at the end of the tenancy are part of a bigger picture, closely connected to things that happen before or during a tenancy. We have already summarized issues about most of them in another report in this series. *Residential Tenancies Act: Before and During a Tenancy*, Issues Paper 7 discusses:

- Security deposits, including the return of security deposits at the end of a tenancy and deductions from security deposits.<sup>400</sup>
- Inspections and inspection reports, including inspections at the end of a tenancy; and<sup>401</sup>
- Lease break fees.<sup>402</sup>

[561] Landlords and tenants may have unresolved disputes at the end of a tenancy. A dispute might begin during a tenancy and continue afterwards, or it might arise at the end of a tenancy. Common kinds of disputes include ones about unpaid rent, damage to a home, or a deduction from a security deposit. Issues about dispute resolution are outside the scope of this report. We may consider them in a future report.

[562] There is one topic not addressed elsewhere, which comes up only at the end of a tenancy. It is about how a landlord should deal with abandoned goods.

## B. Abandoned Goods

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[563] Although the *Residential Tenancies Act* does not say so, most people expect tenants should leave a home clean at the end of a tenancy. If they rented the home unfurnished, they should usually leave it empty. Sometimes they do not.

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<sup>400</sup> *Residential Tenancies Act: Before and During a Tenancy* at paras 112-115, 128-133, 136-138, 142-156.

<sup>401</sup> *Residential Tenancies Act: Before and During a Tenancy* at paras 156-170.

<sup>402</sup> *Residential Tenancies Act: Before and During a Tenancy* at paras 271-275.

Tenants sometimes leave things behind. They may leave valuable or useful things. They may also leave garbage or junk.<sup>403</sup>

[564] There are different reasons why a tenant may leave things behind. They might intend to move all their things but for one reason or another, cannot do it by the time the tenancy ends.<sup>404</sup> Some tenants lack time, money, or resources to move all their belongings in time. Other times, it may be more deliberate. A tenant might be careless about cleaning a home before the end of the tenancy or may choose to leave things they no longer want.

[565] Abandoned goods can be a problem for a landlord. If a tenant leaves anything in the home, the landlord must spend time, money, or both to deal with it. If there is a lot of garbage or junk, it may take a lot of work, time, and money to remove it and clean the home. A landlord may not be able to rent the home immediately to another tenant. If another tenant is waiting to move in, it can have a big impact on them too.

[566] There can also be a big impact on tenants. Depending how a landlord deals with abandoned property, a tenant may lose some or even most of their belongings. They may have to pay costs for moving and storage. They may lose their security deposit or have to pay damages to a landlord to cover disposal and cleaning expenses.

## 1. WHAT SHOULD A LANDLORD DO WITH ABANDONED GOODS?

[567] The *Residential Tenancies Act* has rules about what a landlord should do if a tenant leaves things behind in a home. Usually, the first step is to make a list of the items, as a landlord must keep records including “a description of the

<sup>403</sup> See eg *Re 20001505*, 2020 ABRTDRS 24. The tenants left behind “shoes, mugs, empty beverage containers, video games, utensils, dishes in the dishwasher, cans of soup, bottles of shampoo and other toiletries, small pieces of furniture, a mattress, detergent, two sofas, bong, and other unidentified paraphernalia in the garage.” At a hearing, they admitted “that they did not perform an adequate job of cleaning the property on move-out and expressed their regrets.” See also *Re 19007636*, 2020 ABRTDRS 1. The tenant left behind “hundreds of empty beer cans and dozens of pizza boxes” among other garbage. The home was also very dirty, with large amounts of blood and cat urine as well as dust, stains, and “all manner of filth.”

<sup>404</sup> See eg *Re 20009763*, 2021 ABRTDRS 4. The tenants experienced several delays in moving. The landlord allowed them to extend their tenancy by a few days because their new home was being painted and was not ready by the last day of the tenancy. Then, one day before the additional time expired, the tenants’ car broke down. See also *Krueger v Jaipaul*, 2013 ABQB 650. The tenant was incarcerated when the tenancy ended. Although he asked friends to move his belongings, they did not remove them all.

goods.”<sup>405</sup> Then the landlord should determine their “total market value.”<sup>406</sup> A landlord may immediately dispose of the goods if:

- the total market value of the goods is less than \$2,000;<sup>407</sup>
- the total market value of the goods is \$2,000 or more but the cost of removing, storing, and selling them would be more than the proceeds of selling them;<sup>408</sup> or
- the goods are unsanitary, unsafe, or perishable.<sup>409</sup>

[568] If the total market value is \$2,000 or more and the exceptions do not apply, a landlord must store the goods for at least 30 days.<sup>410</sup> A landlord may store them in the home or move them somewhere else, like a storage facility. The landlord should return the goods to the tenant if the tenant pays the cost of moving and storage.<sup>411</sup> After 30 days, the landlord may sell the goods, usually by public auction.<sup>412</sup> The landlord can use the money to pay the cost of moving and storage for the goods or to cover other debts that tenant owes to the landlord.<sup>413</sup> If there is any money left, the landlord must pay it to the government. The tenant has up to one year to claim the money. After that, the money goes to the government’s General Revenue Fund.<sup>414</sup>

[569] These rules were introduced in 1979, based on recommendations from ALRI’s 1977 report.<sup>415</sup> There have been a few small changes over the years, mostly to adjust time periods and the value of goods a landlord may dispose of immediately. In 1979, a landlord had to store a tenant’s goods for 60 days.<sup>416</sup> It was later adjusted to 30 days.<sup>417</sup> ALRI’s original recommendation was that a landlord should be able to dispose of goods immediately if the total market value

<sup>405</sup> *Residential Tenancies Act*, s 31(14).

<sup>406</sup> *Residential Tenancies Act*, s 31(2).

<sup>407</sup> *Residential Tenancies Act*, s 31(2); *Residential Tenancies Ministerial Regulation*, s 5(1).

<sup>408</sup> *Residential Tenancies Act*, s 31(3)(b).

<sup>409</sup> *Residential Tenancies Act*, s 31(3)(a).

<sup>410</sup> *Residential Tenancies Act*, s 31(4)(a); *Residential Tenancies Ministerial Regulation*, s 5(2).

<sup>411</sup> *Residential Tenancies Act*, s 31(8).

<sup>412</sup> *Residential Tenancies Act*, s 31(4)(b).

<sup>413</sup> *Residential Tenancies Act*, s 31(9).

<sup>414</sup> *Residential Tenancies Act*, s 31(10).

<sup>415</sup> *The Landlord and Tenant Act*, 1979, note 22, s 24; *Residential Tenancies 1977* at 99-102.

<sup>416</sup> *The Landlord and Tenant Act*, 1979, note 22, s 24(4).

<sup>417</sup> *Residential Tenancies Ministerial Regulation*, Alta Reg 229/1992, s 5(2).

was less than \$200.<sup>418</sup> When the legislature adopted the legislation, the amount was less than \$300.<sup>419</sup> It was adjusted after each review of the legislation, first to less than \$1,000<sup>420</sup> and then to less than \$2,000 in 2004.<sup>421</sup> It has remained at less than \$2,000 ever since.

[570] In consultation, we heard several concerns about abandoned property and the rules for dealing with it. Many of the concerns were about people not following the rules but there were also some concerns about the rules themselves.

## 2. ISSUES

[571] Even when everyone follows the rules, there may still be problems.

[572] We heard that a landlord rarely recovers the full cost of dealing with abandoned goods. It is unlikely that selling household goods at auction will cover the costs of moving, storing, and selling them, even if the landlord determines they are worth \$2,000 or more.

[573] If a landlord disposes of goods or sells them, a tenant may lose some or even most of their belongings. They may lose things that are irreplaceable, like photos, heirlooms, or keepsakes.<sup>422</sup> One participant in our consultation told us about a tenant losing the cremated remains of a loved one.

[574] Most things may be replaceable but that does not mean a tenant will be able to replace them immediately. A tenant may not have enough money available to buy new things as soon as they lose them. They may take legal action against the landlord but it will take time. It may be weeks, months, or sometimes even years before a court or RTDRS decides their case.<sup>423</sup> It may take more time to get the money if the landlord does not pay voluntarily and they have to take steps to collect the debt.

[575] Even if a tenant takes legal action, is successful, and collects the money, they will usually not have enough to buy new items to replace their lost ones.

<sup>418</sup> *Residential Tenancies* 1977 at 101.

<sup>419</sup> *The Landlord and Tenant Act, 1979*, note 22, s 24(2).

<sup>420</sup> *Achieving a Balance* at 104-107; *Residential Tenancies Ministerial Regulation*, Alta Reg 229/1992, s 5(1).

<sup>421</sup> *Residential Tenancies Ministerial Regulation*, s 5(1).

<sup>422</sup> In one case a tenant said the items a landlord disposed of included jewelry blessed by the pope and jewelry from her great-grandmother: *Shearer v Shields*, 2017 ABPC 108 at para 32.

<sup>423</sup> See eg *Wilderdijk-Streutker*, note 344. The landlord disposed of the tenant's property in December 2014. The court heard the case in 2016 and issued its decision in 2017.

Courts and RTDRS will usually consider the age and condition of goods when awarding damages.<sup>424</sup> Damages are based on the value of what was lost, not the replacement cost. A tenant will get the amount a buyer would pay for their used furniture, not the cost of new furniture.

**a. How does a landlord decide if goods are abandoned?**

[576] It can be difficult for a landlord to determine whether goods are actually abandoned. It is similar to the difficulty in determining whether a tenant has abandoned the home, discussed in Chapter 11.<sup>425</sup>

[577] A landlord's decisions about abandonment of a home and abandoned goods may be intertwined. If a landlord decides a tenant has abandoned the home, they may assume any items in the home are abandoned goods.<sup>426</sup>

[578] On occasion, a landlord may decide hastily or carelessly that items in a home are abandoned goods. There are some reported cases where landlords decided items in a home were abandoned even though the tenancy had not yet ended.<sup>427</sup> Usually it was while the tenants were in the process of moving. The landlords in these cases seemed to assume that a mostly vacant or disorganized home meant the tenants had abandoned anything remaining, rather than asking if it might be a temporary situation while the tenants moved.

**b. How does a landlord determine the value of abandoned goods?**

[579] The *Residential Tenancies Act* does not say how a landlord should determine the value of abandoned goods. A landlord may dispose of goods if they "believe on reasonable grounds" that they are worth less than \$2,000. There is no guidance in legislation and little in case law about what a landlord should do or what is reasonable. It would be hard to research the value of used furniture or household items, especially if there are a lot of items.

[580] We heard that some landlords essentially guess. A few participants in our consultation seemed to believe that some landlords deliberately underestimate the value of abandoned goods. We heard an anecdote about a landlord making a

<sup>424</sup> See eg *Pena*, note 347 at para 90; *Shearer v Shields*, 2017 ABPC 108 at paras 32-37.

<sup>425</sup> Chapter 11 at paras [508]-[517].

<sup>426</sup> See eg *Krause*, note 345; *Pena*, note 347; *Wilderdijk-Streutker*, note 344; *Re 21009456*, 2022 ABRTDRS 12;

<sup>427</sup> See eg *Gregory v Scott*, 2020 ABPC 8; *Re 22000282*, 2022 ABRTDRS 27; *Re 24000294*, 2024 ABRTDRS 12; *Re 24014227*, 2025 ABRTDRS 1.

thorough list of every item left in a home but assigning a value of \$0 to every item, then immediately disposing of everything.

**c. When should a landlord be able to dispose of goods immediately?**

[581] We heard some concerns about using market value to determine whether a landlord may dispose of goods immediately. Used furniture and household goods usually have very little market value but they may still be useful to the tenant. The price a buyer would pay at auction may not reflect their value to the tenant. A tenant is rarely able to replace furniture or household goods for their market value. If a landlord disposes of goods with a market value of less than \$2,000, a tenant will usually have to pay much more than \$2,000 to replace them.

[582] A few participants thought the value should be adjusted. It has been more than 20 years since the last adjustment. They would like to see it updated or indexed for inflation.<sup>428</sup>

[583] Some participants said that using the market value of goods does not reflect other types of value. Some things may have no market value at all but matter very much to a tenant, like photos or keepsakes.

**d. What happens when landlords or tenants do not follow the rules?**

[584] Some of the concerns we heard were about people not following the rules.

[585] We heard concerns about landlords who either did not know or chose to ignore the rules for dealing with abandoned goods. There are also examples in case law, sometimes coinciding with an unlawful eviction.<sup>429</sup>

[586] A particular concern was about landlords removing or locking up a tenant's belongings and telling tenants they cannot get them back until the tenant pays other debts.<sup>430</sup> We heard that some landlords tell tenants they must pay any rent owing and sometimes other fees before the landlord will return their belongings.

<sup>428</sup> According to a Bank of Canada inflation calculator, \$300 in 1979 would be equivalent to about \$1,300 in 2026. \$2,000 in 2004 would be equivalent to about \$3,200 in 2026. Bank of Canada, "Inflation Calculator", online: <[bankofcanada.ca/rates/related/inflation-calculator/](https://bankofcanada.ca/rates/related/inflation-calculator/)>.

<sup>429</sup> See eg *Re 23001275*, 2023 ABRTDRS 16. A landlord told tenants they would be evicted although the landlord had not applied for or received an order for recovery of possession. The tenants came home one day to find people in their home removing their belongings. Many of their belongings were damaged and some were lost. See also *Krueger v Jaipaul*, 2013 ABQB 650; *Wilderdijk-Streutker*, note 344; *Gregory v Scott*, 2020 ABPC 8; *Re 22000282*, 2022 ABRTDRS 27; *Re 24014227*, 2025 ABRTDRS 1.

<sup>430</sup> There are also examples in case law: see eg *Shearer v Shields*, 2017 ABPC 108 at paras 25-29.

[587] There are often consequences for a tenant who leaves garbage or junk in a home at the end of a tenancy but they are not completely effective at preventing it. Landlords sometimes keep money from a damage deposit to pay any expenses related to dealing with abandoned goods. A landlord could take legal action against a tenant. Courts and RTDRS may award damages for things like garbage disposal and cleaning. Nonetheless, some tenants leave items behind deliberately, carelessly, or because they have no other option.

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How should legislation balance the interests of landlords and tenants in dealing with abandoned goods?

### **C. Next Steps**

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[588] ALRI welcomes comments on any issues in this report or any other issues that we should consider in this project.

[589] As the project continues, ALRI will make recommendations to address some of the problems we have identified. The project will include additional consultation before ALRI makes recommendations for reform.

# contact us



All of our reports are freely available electronically on our website.

We encourage you to contact us. The Contact page on our website was designed to let you provide comments on the current projects we are working on. You can also use this option to suggest an area for review that we are not currently addressing.

You can also follow us on X and LinkedIn for the latest on our projects and developments in Alberta law.

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