
Residential tenancies

NOTES

The landlord has 10 days to give the tenant either at the time the lease is signed; the date when the lease starts or the date when the tenant takes possession, whichever is earliest:

- A copy of the lease and the Act
- A copy of the Act only has to be provided to one of the tenants.

What happens if the landlord does not give them a copy of the lease or Act? Section 7(3) states that when a landlord fails to provide a copy of the Act or the lease in the prescribed time lines the tenant can give notice to the landlord that the tenant will quit and give up the premises on a specified date within a period of three months from the date the notice is given. The tenant has to do this before they receive a copy of the Act or the written lease OR within one month after the tenant receives a copy of the Act or written lease from the landlord.

- A tenant can also apply to Residential Tenancies to pay the rent in trust to the Director until the landlord provides the tenant with an executed copy of the lease and a copy of the Act.
- The landlord can request the tenant execute an acknowledgement that the Act and lease have been received.

Indemnifiers/ co-signors:

- Can refer them to Residential Tenancies Policy on this issue: <http://novascotia.ca/snsmr/pdf/ans-residential-tenancies-policy-16-indemnifiers-and-co-signers.pdf>
- In *Crowell v. Larsen*, 2002 NSSC 150 – two parents signed as co-signors for their daughter. The mother also signed a separate co-signor agreement. The mother paid the rent through post-dated cheques. The court held that co-signors and guarantors were held to the same responsibilities under the Act as a tenant.
- Access Nova Scotia's Policy on Multiple Tenants can be found at: <http://www.novascotia.ca/snsmr/pdf/ans-residential-tenancies-policy-20-multiple-tenants.pdf>

Late Penalties:

- Whether a lease is verbal or written, it contains all the provisions of the Standard form lease. Clause 10 of the Standard Form lease sets out the amount to be paid each month, how it will be paid and when it will become due. As part of Clause 10 “a late payment fee, if any, shall be charged at no more than 1% per month of the monthly rental”.
- Not all landlords will charge the late penalty fee to tenants but it is open to them to do so.
- If the rent was late due to the actions of the landlord and not the tenant, the late penalty fee is often waived.

Disposition of security deposits:

- Section 12(6) deals with disposition of the security deposit. It states: “Where the landlord seeks to apply all or part of the security deposit and interest to outstanding rent or to expense incurred in respect of any damage for which the tenant is responsible and the tenant does not consent in writing, the landlord may make an application under Section 13 in the form prescribed in the regulations.
- Section 12(7) states that an application pursuant to Section 12(6) shall be made within 10 days of the date of the termination of the lease. If the application is not made, the deposit shall be returned to the tenant in accordance with Section 12(5).
- **Access Nova Scotia Program Policies on Security Deposits:**

- <http://www.novascotia.ca/snsmr/pdf/ans-residential-tenancies-policy-29-security-deposit-trust-account-requirements.pdf>
- <http://www.novascotia.ca/snsmr/pdf/ans-residential-tenancies-policy-30-security-deposits.pdf>

Bedbugs –

it is difficult to prove if the bedbugs were in the unit or if the tenant brought them with them. The tenant should notify the landlord promptly of the problem and the landlord has to take reasonable and timely efforts to eradicate the problem. However, the tenant needs to comply with reasonable requests and direction with respect to eradication problems. If the landlord does not get rid of the problem, the tenant may be able to use this as a basis to terminate the lease and may be able to receive compensation for items damaged or destroyed and some period of rent reduction. Several cases involving bed bugs that have made their way to Small Claims.

1. For each municipality, the tenant should check with the provincial and municipal by-laws and building codes and if they suspect the landlord is not complying with the applicable standards of health and safety they can request an inspector examine the property. While this may result in an Order issuing for repairs it can, sometimes, result, in the building being condemned or requiring such extensive work that tenants have to move in order for the landlord to safely carry out repairs.
2. Know the codes or where and who to contact for your area – if any of the students ask.
3. Access Nova Scotia Program Policy: <http://www.novascotia.ca/snsmr/pdf/ans-residential-tenancies-policy-33-standards-of-health-safety-or-housing.pdf>

Landlord not fulfilling obligations

A visit by the building inspector may result in an order for the landlord to undertake specific repairs in a specific amount of time or face a fine or other action. Sometimes if the building is in serious disrepair, it may be determined to be uninhabitable and the tenant or tenants may have no choice but to move.

It should be noted that the tenant can ask the Residential Tenancy officer to pay their rent in trust to Residential Tenancies until the repairs are completed. While there is no specific provision to enforce an order for repairs by the Residential Tenancy officer, the tenant at a hearing can request an adjournment of the hearing to allow the work to be completed and rent paid in trust. At the adjourned hearing, if the work has not been completed, the tenant could ask for a termination of the lease and/or rent abatement. This may compel the landlord to take steps to carry out the repairs if they are not receiving their rent.

If the failure by the landlord to reasonably maintain the property resulted in the tenant being unable to have full use of their unit under the terms of the lease, the tenant may request a rent abatement as part of their application with Residential Tenancies. There is no sliding scale or general rule for rent abatement. It will be fact specific.