



Residential Tenancy Act Background

The *Residential Tenancy Act* is new legislation that will be considered by the Legislative Assembly this spring. If passed, it will replace the *Rental of Residential Property Act*. The new Act will provide a modern legislative framework for the rental of residential property, and better protect tenants and landlords while addressing the realities of the current housing situation in Prince Edward Island.

Tenants - New Areas and Significant Changes

Emergency Repairs

Under the *Residential Tenancy Act*, emergency repairs are clearly defined. Landlords must provide the name and telephone number of a person the tenant is to contact when an emergency repair is needed. Tenants can proceed with emergency repairs if they have made at least two attempts to contact the landlord and have given the landlord a reasonable amount of time to complete the emergency repairs. The landlord must reimburse the tenant within 7 days for expenses the tenant incurs to fix the emergency repairs. If the landlord does not reimburse the tenant for these repairs, the tenant can make an application to the Director of Residential Tenancy to deduct the expense from their rent. If the landlord wants to take over the repair at any time they have the right to do so.

Renovictions

Tenants who receive a notice of eviction for major repairs or renovations have the **right of first refusal**. This means that once renovations are done, a landlord must offer the rental unit to the original tenant if the tenant chooses to exercise their right of first refusal.

Under the *Residential Tenancy Act*, there are several added protections for tenants experiencing renovictions. For one, a **major renovation is clearly defined** as repairs or renovations that are so extensive that they require a building permit and vacant possession of the rental unit. A building permit was not required under the *Rental of Residential Property Act*.

Landlords are also required to give tenants six months' notice before terminating a rental agreement for renovations.

If a tenant chooses **not** to exercise their right of first refusal, tenants who live in a residential property with at least 20 rental units have the **right to compensation** when given a notice of eviction for major repairs or renovations. The landlord must compensate a tenant in the amount of one month's rent or an amount of rent equal to the period the unit is under renovation, whichever is less. The tenant cannot move back in when renovations are complete. Compensation is not required if the renovations were ordered to be completed by an authority; for example, if they have been ordered to comply with the *Public Health Act*.

Bad Faith Eviction

Under the *Residential Tenancy Act*, a tenant can make an application to the Director to determine whether an eviction notice was given in bad faith, which means that the landlord was intentionally dishonest when giving the eviction notice. The tenant can make this application up to one year after they have moved out. If the eviction notice was given in bad faith, the Director can order that a landlord pay a tenant for increased rent and reasonable out-of-pocket moving expenses, pay an administrative penalty, or make other appropriate orders.

Landlords - New Areas and Significant Changes

Non-Refundable Fees

Under the *Residential Tenancy Act*, landlords can charge a non-refundable fee for:

- replacement keys or other access devices
- additional keys, if requested by the tenant
- a service or administration fee charged by a financial institution for the return of a tenant's cheque
- services or facilities requested by the tenant not currently provided under the tenancy agreement

Non-Payment of Rent

When a tenant fails to pay rent on the day it is due, a landlord may serve a notice of termination (or an eviction notice) for non-payment of rent the following day. The tenant then has seven days to pay the rent in full or apply to the Director to have the matter determined. If the tenant does not pay the rent and does not file an application with the Director of Residential Tenancy, they are deemed to have accepted the notice of termination and must move out no later than fourteen days after the date the notice of termination was first given.

This represents a shorter timeline for landlords who wish to evict a tenant for non-payment of rent compared to the current Act.

Earlier Termination of Rental Agreement

In serious circumstances, a landlord may make an application to the Director of Residential Tenancy to take possession of the rental unit before the usual eviction period.

Rent Increases

Each year, the Director of Residential Tenancy determines the amount that a landlord can raise the rent. The Residential Tenancy Act provides a clearly defined formula to be used by the Director to calculate the allowable annual rent increase. This formula provides more clarity to landlords.

If a landlord wants to increase the rent higher than the amount allowed by the Director of Residential Tenancy, they must make an application to the Director. The Residential Tenancy Act contains a more comprehensive list of 13 factors to be considered by the Director of Residential Tenancy when determining whether an application for a greater than allowable increase in rent should be allowed. These factors provide more clarity to landlords about what to expect when they make an application for a greater than allowable increase in rent.

Comparison of Proposed Act and Current Act

Mandatory Inspections

In the *Residential Tenancy Act*, landlords will be required to give the tenant two opportunities to inspect the unit before moving in. The landlord is required to complete the inspection report and provide a signed copy to the tenant.

An inspection of the rental unit after the tenant moves out is also required. The landlord must provide the tenant with two opportunities to inspect the rental unit. The landlord must give a signed copy of the inspection report unless the tenant abandons the rental unit.

Application – Six Month Limitation Period

In the *Residential Tenancy Act*, a landlord or a tenant can make an application to the Director up to six months after the end of the rental agreement. The Director can make determinations about a question arising from the Act or the regulations, whether a condition of the rental agreement has been contravened or whether a condition of the Act or the regulations has been contravened.

Despite this, tenants have one year to make an application to the Director for a dishonest eviction, known as an eviction in ‘bad faith’. If a landlord is found to have acted in bad faith, the Director can impose a number of penalties.

Administrative Penalties

In the *Residential Tenancy Act*, the amount of an administrative penalty has increased from \$2,000 to up to \$10,000. There is also greater clarity around which considerations must be taken when giving an administrative penalty.

Comparison of the Proposed and Current Act

Act Element	Proposed Act	Current Act
Rental agreements	Must be written	Can be written or verbal
Security deposits	<p>Landlord and tenant must conduct move in and move out inspections and complete and sign inspection reports.</p> <p>Landlord must return security deposit or make an application to retain security deposit within 15 days.</p> <p>Landlord can retain security deposit if the tenant does not provide a forwarding address within 6 months.</p> <p>If the landlord does not comply with the Act, they must reimburse the tenant double the security deposit.</p>	<p>No similar defined process</p> <p>Landlord must return security deposit or make an application to retain security deposit within 10 days</p> <p>No similar provision.</p> <p>No similar provision.</p>
Eviction for non-payment of rent	Landlord can serve notice the day after rent is due. Tenant has 7 days to pay or contest the termination. If they do not, they must move out in 14 days.	Landlord can serve notice the day after rent is due. Tenant has 10 days to pay or contest the termination. If they do not, they must move out in 20 days.
Emergency repairs	<p>Landlord must give information for a contact person to tenants in case an emergency repair is needed. Tenants must make 2 attempts to contact landlord to have emergency repairs done and give the landlord a reasonable time to complete the repairs. If the landlord does not complete the repairs, the tenant may have the repair done and the landlord must reimburse them within 7 days. If the landlord does not reimburse the tenant, the tenant can apply to the Director to have the expense deducted from their rent.</p> <p>Landlords are not responsible for reimbursement of emergency repairs if the damage is determined to be caused by the tenant.</p>	No similar defined process

Comparison of the Proposed and Current Act (continued)

Act Element	Proposed Act	Current Act
Rent increases	<p>Specific statement that the rent runs with the unit, and not the tenant.</p> <p>Tenant can treat notice of rent increase as a termination notice and can inform the landlord they will be moving out on the last day before rent increase is in effect.</p> <p>3 months' notice is required.</p> <p>Specific formula to calculate rent increases, and a 2.5% cap on rent increases per year.</p>	<p>No similar provision</p> <p>No similar provision</p> <p>3 months' notice is required</p> <p>No specific formula, and no legislative 'cap'.</p>
Greater than allowable increases in rent	<p>More factors will be considered, including whether the landlord has issued an unsuccessful Notice of Termination to the tenant which was contested within the last 6 months before the application, and to what extent the proposed repairs are due to the landlord's lack of maintaining the property.</p>	<p>5 factors to be considered.</p>
Termination of Rental Agreement by Tenant	<p>In line with other provinces, tenants can terminate a rental agreement if they or a dependent family member living with the tenant has experienced domestic violence.</p> <p>Tenants can terminate rental agreement if unit is uninhabitable.</p> <p>Tenants can terminate rental agreement if they or someone who provides them with financial assistance to pay rent becomes ill or moves into long-term care.</p>	<p>No similar provision</p> <p>No similar provision</p> <p>No similar provision</p>
Termination of Rental Agreement by Landlord	<p>Renovations/Demolition/Conversion</p> <ul style="list-style-type: none"> • Must provide 6 months' notice • If mobile home, must provide 12 months' notice • Tenants have one month to dispute notice • For renovations, must require a building permit and be so extensive they require vacant possession • Landlord cannot terminate rental agreement during the school year if tenant is a school aged child and attends school or the tenant resides with a school-aged child who is attending school at the time • Tenant has first right of refusal once repairs/renovations are completed – but must give landlord notice of their wish to exercise this right • A landlord must reimburse the tenant 3 months' rent if they do not comply with tenant's right of first refusal 	<p>Renovations / Demolition / Conversion</p> <ul style="list-style-type: none"> • Must provide 2 months' notice • Renovations must be so extensive they require the unit to be vacant • Landlord must act in good faith

Learn more about consultation activities at PrinceEdwardIsland.ca/ResidentialTenancy