Yukon

RESIDENTIAL LANDLORD AND TENANT HANDBOOK

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HANDBOOK

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The Residential Tenancies Office (RTO) provides the following forms to landlords and tenants. Please visit yukon.ca **to access a digital copy. You can also visit the RTO at 307 Black Street in Whitehorse to obtain a paper copy.**

Start of tenancy forms:

- Tenancy agreement
- Condition inspection report

End of tenancy forms:

- 14-day notice to end tenancy
- 1-month notice to end monthly tenancy (tenant to landlord)
- 2-month notice to end monthly tenancy (landlord to tenant)
- 3-month notice to end tenancy for yearly tenancy (landlord or tenant)
- Condition inspection report

In the case of one-week tenancies, please modify either the one-month or two-month notice to clearly identify this tenancy period.

Dispute resolution forms:

- Application for dispute resolution
- Fee waiver application

Topic 1

Introduction

This guide provides information about the *Residential Landlord and Tenant Act* (the "RLTA") and regulations.

1.1 The *Residential Landlord and Tenant Act* applies to:

- residential properties (including mobile homes and mobile home sites);
- properties owned by housing agencies (Yukon Housing Corporation, Kwanlin Dün First Nation and Grey Mountain Housing Society); and
- hotel, motel or tourist establishment accommodation over six months' duration.

In the event that the RLTA and this handbook differ, the RLTA prevails.

1.2 The *Residential Landlord and Tenant Act* does not apply to:

- commercial tenancies or accommodation included with premises that are occupied for business purposes and rented under a single agreement;
- accommodation where the tenant shares bathroom or kitchen facilities with the accommodation's owner;
- any occupancy in a hotel, motel or other tourist establishment under six months;
- accommodation owned or operated by an educational institution;
- emergency and transitional housing;
- any group home, out-of-home care or similar living accomodation that the Government of Canada, the Government of Yukon, a municipality or a First Nation directly or indirectly provides for individuals with special needs;
- community care, continuing care and assisted living;
- public or private hospitals; or
- correctional institutions.

Topic 2.

The tenancy agreement

Every landlord and tenant must complete a tenancy agreement (often called a "lease"). This agreement **must be in writing** and be **signed** and **dated** by both the landlord and the tenant(s).

A sample tenancy agreement is available at yukon.ca. Landlords are encouraged to use this Residential Tenancies Office-approved agreement as it complies with all current legislative requirements.

Failure to follow a tenancy agreement's terms can have significant negative consequences. It is important that both the landlord and the tenant know what is and what is not acceptable and to understand each term of the agreement.

> The landlord must give the tenant a copy of the signed and dated tenancy agreement within 21 days of signing.

2.1 Information required on a tenancy agreement

It is possible to create or customize a tenancy agreement. But it must meet legislative requirements.

The agreement must include:

- address for service and telephone number of the landlord (or landlord's agent);
- a telephone number the tenant may call in the case of emergencies;
- address of the rental unit;
- date the tenancy agreement is entered into;
- date when the tenancy starts;
- type of tenancy (i.e. fixed-term or periodic);
- date when the tenancy ends, if the tenancy is for a fixed term.

2.2 Standard terms of a tenancy agreement

The following **standard terms** are consistent with the *Residential Landlord and Tenant Act (RLTA)* and regulations and must be included in every tenancy agreement:

- sublet or assigning (transfer) of the tenancy agreement;
- condition inspections;
- permitted fees;
- prohibited fees;
- rules for entry by a landlord;
- ending the tenancy;
- locks;
- rent increases;
- repairs; and
- plumbing and water supply.

In addition to the terms above, every tenancy agreement must include:

- a clear description of any parts of the residential property, other than the rental unit, that the tenancy agreement gives the tenant access to; and
- a copy of the minimum rental standards that are set out in the schedule to the RLTA regulations.

2.3 Changes to a tenancy agreement

After a landlord and tenant enter into a tenancy agreement, changes or deletions of **standard terms** in the agreement are not allowed.

A landlord and tenant may make a change to a term that is not a standard term if both agree. This agreement should be made in writing.

Agreement of a tenant and landlord to change a non-standard term is not required if:

- it is for a rent increase for additional occupants;
- it is for a yearly rent increase as permitted under the RLTA;
- it is for another reason set out in the tenancy agreement;
- the RTO has issued an order to allow the change without agreement.

A landlord cannot ask a tenant not to apply for dispute resolution as a condition of a tenancy agreement.

Terms must not be contrary to the RLTA and must meet the minimum requirements set out by the RLTA or regulations.

Landlords are not allowed to charge additional application fees for accepting, processing, or investigating applications for rental, or for accepting a person as a tenant.

Topic 3

Deposits

Under Yukon's *Residential Landlord and Tenant Act* (RLTA), landlords are allowed to ask a tenant to pay a security deposit at the start of a tenancy.

3.1 Security deposit – maximum

A security deposit cannot be more than the first month's rent and a landlord can only ask for the security at the beginning of the tenancy. The only exception is if a tenancy is a weekly tenancy. In this case, the maximum security deposit is the first week's rent. If the landlord raises the rent at any point, the landlord **cannot** ask that the security deposit be increased.

A landlord can charge only **one** security deposit for each tenancy agreement, regardless of the number of tenants in the agreement. The landlord cannot ask for more deposit money if more people move in.

A landlord can give a 14-day notice to end tenancy if the tenant does not pay the security deposit within 30 days of the date the tenancy starts.

A security deposit may be used to cover damage caused by the tenant (or tenant's guests) beyond normal wear and tear. However, the landlord must agree in writing before the security deposit can be applied towards the last month's rent. (Any time a landlord requests "last month's rent," this is considered a security deposit).

Post-dated cheques for rent do not violate the rule that a security deposit cannot be more than the first month's rent.

3.2 Pet and fuel deposits – prohibited

A landlord cannot charge a separate or extra deposit in relation to either a pet or fuel deposit. Only one security deposit can be collected at any time per tenancy agreement and it cannot be more than the first month's rent.

Pets

Landlords can decide if they will allow pets and restrict the size, kind and number of pets. The landlord can set pet-related fees and rules that the tenant must follow. These rules and fees must be included in the tenancy agreement.

Pet terms and restrictions must comply with existing laws (including bylaws).

Fuel

A landlord may ask for the fuel tank to be filled when the tenant vacates. This should be included as a term in the tenancy agreement. If the tenant does not fulfill this condition, or if a dispute arises, the tenant or landlord may apply to the Residential Tenancies Office (RTO) for dispute resolution.

3.3 Further prohibitions

A landlord is prohibited from requiring or including a term in an agreement that says the landlord automatically keeps all or part of the deposit at the end of the tenancy.

Please see topic 19 in the RTO handbook for information on returning security deposits.

Topic 4

Condition inspection reports [move-in & move-out]

A condition inspection report that records the rental unit's condition at the time the tenant moves in **and** when the tenant moves out **must be completed**.

A landlord and tenant can use their own form so long as it complies with the *Residential Landlord and Tenant Act* (RLTA). An approved condition inspection report is available at yukon.ca or from the Residential Tenancies Office (RTO) in Whitehorse.

> Having a record of the rental unit's condition can be very useful if a dispute arises.

A landlord and tenant must inspect the condition of the rental premises together:

- at the **start** of the tenancy; and
- at the **end** of the tenancy.

Generally, the inspection should be done on the tenant's move-in and move-out days when the rental premises are vacant (unless otherwise agreed by the parties). The move-out inspection should be done before a new tenant moves in.

Both the landlord and the tenant must sign the completed report. The landlord must give a copy to the tenant within **14 days** of the move-in inspection.

> The move-out report must be provided to the tenant within seven days after the inspection is completed.

It is important that both parties take part in the condition inspection. The landlord cannot carry out the inspection as the agent for the tenant.

> Failure by the landlord or the tenant to carry out the inspection can lead to loss of the security deposit or loss of the ability to claim against it.

4.1 When a condition inspection is not completed

The landlord **must** offer a tenant two "good faith" opportunities to do the condition inspection. If the times proposed by the landlord are not suitable to the tenant, the tenant should suggest other times to the landlord. The parties should always work together to find a mutually agreeable time.

A **landlord** may lose the right to claim against the security deposit if the tenant was not given two opportunities to inspect the rental unit or if the inspection was completed but the landlord did not give the tenant a copy of the inspection report within the required timeline. This does not apply when the tenant abandons the rental unit.

A **tenant** may lose the right to get back their security deposit if the landlord offered at least two opportunities for the inspection and the tenant did not participate at either time. In such a situation, the landlord must carry out the inspection report without the tenant.

If the tenant is unable to attend an inspection, someone else can take their place (e.g. a friend). If that happens, the name of their replacement must be given to the landlord before the inspection.

Topic 5

Minimum rental standards

Minimum rental standards are required and may vary depending on the age, character and location of the residential property, and the services or facilities that are provided or agreed to be provided.

Both tenants and landlords have a duty to inform each other if they have concerns or issues regarding their rental units and/or residential properties.

Neither party must interfere with the responsibility of the other to comply with the *Residential Landlord and Tenant Act* (RLTA) or regulations.

A tenant must not do anything in regard to the rental unit and/or residential property that would reasonably be expected to create a health, fire or safety hazard.

As of January 1, 2017 all rental units must comply with the minimum rental standards.

5.1 Lot and exterior

1. Surface drainage

The landlord must provide surface water drainage and disposal on the residential property to help prevent erosion, ponding and entry of water into buildings and other structures located on the rental property.

2. Accessory buildings and other structures

The landlord must provide buildings and other structures (other than fences) on the residential property in good repair and free from conditions that would reasonably be expected to create a health, fire or safety hazard.

3. Walks, steps, driveways and parking areas

Walks, steps, driveways and parking areas of the residential property must be provided by the landlord in good condition to afford safe, unobstructed passage and a safe surface and, unless otherwise agreed to by both the landlord and the tenant and stated in the tenancy agreement, must be maintained in that condition by:

- the tenant, for any area of the residential property that is for the tenant's exclusive use; and
- the landlord, for all other areas of the residential property.

4. Yards

The landlord must provide the yard of the residential property in a condition that is clean and free from rubbish, debris, holes, excavations and other objects and conditions that would reasonably be expected to create a health, fire or safety hazard.

5. Porches, stairs and balconies

The landlord must provide all porches, balconies, landings, and stairs on the residential property with handrails as required under the *Building Standards Act*, and must maintain the porches, balconies, landings and stairs free from defects that would reasonably be expected to create a health, fire or safety hazard.

6. Exterior walls

The landlord must provide exterior walls of buildings on the residential property with a cladding or covering reasonably free of holes, cracks, and excessively worn surfaces so as to prevent the entrance of moisture, insects, and rodents into the structure, and to provide reasonable durability.

7. Roofs

The landlord must provide each building on the residential property with a weathertight roof (including eavestroughing and water piping as appropriate), and must ensure that water from the roof of the building is reasonably directed away from the building.

5.2 Safety and fire protection

1. Safety alarms and equipment

The landlord must ensure that the residential property conforms to all applicable requirements under the *Fire Prevention Act*.

The landlord and the tenant must comply with each obligation imposed on them under the *Fire Prevention Act*, including (but not limited to) those that relate to smoke alarms and carbon monoxide alarms.

2. Fuel-burning appliances

The landlord must ensure that all fuel-burning appliances in the residential property are lawfully installed, are in good working order, and are regularly serviced in accordance with the manufacturer's instructions.

The landlord must ensure that chimneys, smoke pipes, connections, and their components on the residential property are kept clear of obstructions, are cleaned annually (or more frequently if necessary), and are maintained in good working order.

3. Safe passage out

The landlord must provide the rental unit with a safe, continuous, and unobstructed passage from the interior of the rental unit to the exterior grade level of the building. The passage must not pass through a room contained in a separate rental unit.

The tenant must not unreasonably obstruct the passage from the interior of the rental unit to the exterior grade level of the building.

The landlord must ensure that every room in the rental unit that is intended to be a bedroom has a window that provides a safe passage out as required under the *Building Standards Act*.

5.3 Interior

1. Basements, crawl spaces and foundations

The landlord must provide cellars, basements, crawl spaces and foundations of the residential property in good repair such that they are reasonably weathertight and rodent-proof.

2. Walls, ceilings and floors

The landlord must provide walls, ceilings and floors of the residential property in a structurally sound condition reasonably free from major cracks, crevices, holes and defects.

3. Floors

The landlord must provide floors in the washrooms, shower rooms, toilet rooms, bathrooms and laundry rooms of the residential property that are reasonably resistant to moisture.

4. Doors and windows

The landlord must provide exterior doors, windows and frames on the residential property that operate satisfactorily and are reasonably weathertight, and must repair or replace any damaged or missing parts, including broken glass and defective hardware.

5. Entrance doors

The landlord must provide entrance doors to rental units that are capable of being locked from both inside and outside.

6. Heating

The landlord must maintain the heating system in the building in which the rental unit is located in good working condition.

The tenant must not use, and the landlord must not require the tenant to use:

- a cooking appliance as a primary source of space heating; or
- a portable space heater as a primary source of heat.

Whichever of the landlord and the tenant controls the temperature of the rental unit must neither allow the rental unit to be so cold, nor cause it to be so hot, that it is reasonable to expect the temperature:

- to be a health or safety hazard; or
- to cause damage to the rental unit.

The landlord or the tenant is not required to do anything to reduce the temperature of the rental unit other than to refrain from heating it.

7. Plumbing and water supply

If the rental unit includes a plumbed water supply system where the water is supplied directly from a large public drinking water system (as defined in the *Drinking Water Regulation* under the *Public Health and Safety Act*), the landlord must ensure that the system provides an adequate supply of drinking water to the rental unit.

The landlord must provide all plumbing in the rental unit in sound condition, maintain it reasonably free from leaks and obstructions, and ensure it is protected from freezing. The tenant must maintain all plumbing reasonably free from obstructions and must immediately inform the landlord if the tenant has reason to believe the plumbing is not in sound condition or is not reasonably free from leaks and obstructions.

Water that is supplied to a rental unit directly from a large public drinking water system is deemed to be drinking water unless there are reasonable grounds to believe that it is not.

If the rental unit does not include a plumbed water supply system, or its plumbed water supply system is supplied otherwise than directly from a large public drinking water system, the landlord must supply drinking water in the amount, if any, specified in the tenancy agreement.

8. Toilets

The landlord must provide the rental unit with toilet facilities, whether indoor or outdoor, that meet reasonable health and safety standards and that have a lockable door to provide privacy.

If a shared bathroom or toilet room includes one or more toilet stalls, the landlord must provide each toilet stall with a lockable door that provides privacy.

9. Bathrooms

If the rental unit contains a bathroom with one or more fixtures including sinks, showers, tubs and toilets, the landlord must provide the fixtures in good working order.

The landlord must provide each indoor bathroom with a lockable door that provides privacy.

10. Sewage disposal

The landlord must ensure that the rental unit is connected to a public sewage system or to a maintained and functioning private sewage disposal system, or has an outhouse if there is no plumbed water at the rental unit.

The landlord must provide the sewage system and all related components in proper operating condition, free from leaks, defects, and obstructions, and suitably protected from freezing.

11. Light and ventilation

The landlord must provide the rental unit with sufficient ventilation so as not to create dampness, moisture or condensation in the rental unit that might reasonably be expected to lead to rot, mildew or other conditions that are a [potential] health hazard. The tenant must use the means provided by the landlord to ensure sufficient ventilation as described above.

12. Electrical services

If the rental unit is connected to an electrical power system, the landlord must provide all outlets, switches, wiring, and fixtures in safe working condition.

The tenant must neither change the system in such a way as to create a safety or fire hazard nor overload it.

13. Appliances

If the tenancy agreement requires the landlord to provide appliances in the rental unit:

- the landlord must provide properly installed and vented appliances that are in good working condition; and
- the tenant must maintain the appliances in good working condition and must immediately inform the landlord if the tenant has reason to believe an appliance is not in that condition.

14. Pest prevention

The landlord must provide the residential property free of rodent, vermin, and insect infestations and must take appropriate measures to exterminate infestations, should they occur.

The tenant must maintain the residential property free of attractants that would reasonably be expected to cause rodent, vermin or insect infestations.

15. Overcrowding

Neither the landlord nor the tenant may allow more people to reside in the rental unit than the lowest maximum number permitted under the fire code established under the *Fire Prevention Act* and other applicable health and safety standards.

Topic 6

Paying the rent

Rent must be paid in full and on time. The day that the rent payment is due must be clearly stated in the tenancy agreement. Rent payment is overdue if the full amount is not paid by the end of the day it is due. The only exceptions are if a tenant and a landlord have agreed otherwise in writing, or if the tenant is complying with an order from the Residential Tenancies Office (RTO).

> Any agreement between the landlord and tenant should always be put in writing and signed by both parties – the example below illustrates the potential risk of not getting an agreement in writing.

Example scenario

A tenant and a landlord sign a tenancy agreement that states the rent is due (in full) on the first day of the month. A few months into the tenancy, the tenant mentions to the landlord that they want to start paying the rent in two monthly instalments (half on the first day of the month and the other half on the 15th day of the month) rather than one monthly payment. The landlord doesn't appear to disagree with the idea, but the landlord and the tenant do not write down and sign a new payment agreement.

The following month, when the tenant doesn't pay the full rent on the first day of the month, the landlord serves the tenant with a 14-day notice to end tenancy. When the tenant calls the landlord to say they thought they had agreed on a new payment plan, the landlord denies ever having told the tenant that they could pay the rent in two monthly instalments.

Problem: Without the proof of a written and signed agreement showing the new payment plan, it may now be impossible for the tenant to prove that the full rent wasn't due on the first of the month.

A landlord:

- does not have to accept partial rent payment and if they do, the tenant is still required to pay the full amount when it is due;
- **must** provide a receipt when a tenant pays the rent in cash; and
- should make it clear **how** and **when** the rent payment is to be made.

There are limited situations when a tenant can withhold the entire or partial rent. These are:

- by order of the RTO;
- when the landlord agrees in writing; and
- if the landlord increases the rent in a manner contrary to the *Residential Landlord and Tenant Act*.

6.1 Late or unpaid rent

Non-payment or partial payment of rent can be grounds for a landlord to give a tenant a 14-day notice to end the tenancy for cause.

First time rent is late: If the tenant pays all the outstanding rent within five days of receiving the notice, the notice becomes void and the tenancy continues.

Repeated non-payment: However, if the non-payment of rent is repeated, paying within five days will not void the eviction notice.

6.2 Late or unpaid rent and utility charges

When a tenancy agreement requires the tenant to pay utility charges (e.g. heat, hydro or cable) to the landlord, and the tenant has not paid those charges, the landlord can treat the unpaid utility charges as unpaid rent.

However, before serving the tenant with a 14-day notice, a landlord must first provide the tenant with a written demand and then give the tenant 15 days to pay the outstanding utility charges.

6.3 Rent receipts

A landlord must provide a tenant with a receipt for any rent paid **in cash**. However, there is no general requirement for a landlord to provide a receipt to a tenant if the rent is not paid in cash.

If a tenant believes they might require proof of rent payments, it is a good idea for them to use cheques or other traceable forms of payment that can be relied on for documentary proof.

Topic 7

Rent increases

7.1 Rent increases

The Residential Landlord and Tenant Act (RLTA) does not limit the amount of a rental increase. However, it does place timing and notice requirements on landlords in relation to rental increases. They are:

- during the first year of a tenancy, a landlord cannot increase the rent;
- before any rent increase, the landlord must give the tenant written notice at least three full rental months prior to the increase; and
- a landlord can increase the rent only once every 12 months.

The timing and notice requirements for a rental increase do not apply where the rental increase is:

(a) for one or more additional occupants, and (b) is authorized under the tenancy agreement.

Landlord and tenant cannot enter into multiple agreements to avoid rules about rental increases noted in 7.1.

7.2 Mobile home site exception

If a tenant of a mobile home site receives a notice of rent increase from the landlord (the mobile home park), the tenant may treat the rent increase notice as a notice to end the tenancy by advising the landlord in writing **within 30 days** of receipt of the notice. If a tenant chooses to end the tenancy of the mobile home site, the landlord is not allowed to apply a rent increase to the site until the tenant has vacated the site.

If the notice of rent increase is used to end the tenancy, the tenancy will end the day before the rent is due and in the 12th month following the month in which the tenant received the notice of rent increase.

If the tenant changes their mind about leaving the mobile home site and the landlord and tenant both agree to continue the tenancy, the notice of rent increase takes effect on the date in the original notice of rent increase, unless the landlord and tenant agree differently.

Rent may not be increased by more than the percentage change in the Consumer Price Index (CPI) for the preceding calendar year. There are two exceptions to this rule that set the minimum and maximum allowable increase of rent:

- If the CPI for the previous year was less than 2%, landlords may increase rent by up to 2%.
- If the CPI for the previous year was greater than 5%, landlords cannot increase rent by more than 5%.

Within the 2%-5% range, rent increases should reflect the CPI of the preceding year.

Topic 8

Repairs

8.1 Repairing and maintaining the property

Both the landlord and tenant have responsibilities for repairing and maintaining the rental unit.

A tenant must:

- repair any damage that they, their guests or pets cause, even if it is an accident;
- keep the rental unit in a condition that meets reasonable health, cleanliness and sanitary standards; and
- contact the landlord as soon as possible if a serious repair is needed to a service or facility provided by the landlord.

A landlord must:

- maintain the building and property to health, safety and housing standards; and
- keep the rental premises in a condition that makes the building suitable for occupation by a tenant.

Ongoing repairs that continually disrupt a tenant may make a rental unit less liveable and thus less valuable. The tenant could be entitled to reduced rent while the work is being done. The landlord and tenant can agree in writing to a temporary rent reduction, or the tenant can apply for dispute resolution asking for a rent reduction.

8.2 Regular repairs

To get repairs done, the tenant should make a request to the landlord (preferably in writing) stating what repairs are needed and asking that they be completed within a reasonable period.

If the landlord does not complete the repair within a reasonable period, the tenant can apply for dispute resolution asking for an order forcing the landlord to do the repairs or compensate the tenant accordingly.

It is important to remember that there is a duty on both the landlord and tenant to do whatever is reasonable to minimize the damage or loss that results from the other party's non-compliance with the *Residential Landlord and Tenant Act*. If the issue is an emergency, the tenant will likely have to deal with the the issue promptly and then seek compensation from the landlord.

The Residential Tenancies Office may also order that:

- The tenant may deduct an amount from rent which has or will be expended on the maintenance or a repair.
- Any future rent must be reduced by an amount that is equivalent to a reduction in the value of the tenancy. For example, when a tenant can use only one of the two bedrooms in a rental unit because of needed repairs, the landlord may be required to reduce the rent to reflect the loss of this value.

8.3 Emergency repairs

Repairs are an emergency only if the health or safety of the tenant is in danger or if the building or property is at immediate risk.

Examples of emergencies are:

- major leaks in pipes or the roof;
- damaged or blocked plumbing fixtures or sewer pipes;
- malfunctioning electrical systems;
- broken central or primary heating systems; and
- defective locks that let anyone enter the rental unit without a key.

Situations that are not emergencies include:

- a burnt-out element on a stove;
- a doorbell that doesn't work; and
- lost keys.

When an emergency arises, we strongly advise that the tenant try to call the landlord's emergency contact more than once, allowing a reasonable amount of time for the contact to respond each time. If the matter goes to dispute resolution, it would be useful if the tenant had evidence of these attempts, such as a witness or written notes. If the emergency contact does not respond, the tenant may have the work done at a reasonable repair cost and seek reimbursement from the landlord. The tenant should provide proof (receipts) of the actual expenses in order to be reimbursed.

8.4 Reimbursing a tenant for emergency repairs

A landlord may have to compensate a tenant who paid for repairs if the tenant:

- did not cause the damage and their guest or pet did not cause the damage;
- attempted to contact the landlord's designated emergency contact on more than one occasion in relation to the problem;
- allowed a reasonable time for the contact person to respond; and
- provided the landlord with a written account of the reasonable repairs with receipts and requested reimbursement from the landlord.

Topic 9

Quiet enjoyment

The *Residential Landlord and Tenant Act* (RLTA) establishes a tenant's right to **quiet enjoyment**.

Quiet enjoyment does not require rental premises to be free from noise; rather, it includes but is not limited to:

- reasonable privacy;
- freedom from unreasonable disturbance;
- exclusive possession to the tenant, subject to the landlord's right of entry under the RLTA; and
- use of common areas for reasonable and lawful purposes, free from significant interference.

9.1 When is the right to quiet enjoyment breached?

Frequent and ongoing interference by the landlord, or the conduct of other tenants that the landlord should but does not address, may be a breach of the right to quiet enjoyment.

Such interference might include:

- unreasonable and ongoing noise;
- entering the rental premises frequently, or without notice or permission;
- refusing the tenant access to parts of the rental premises;
- unreasonably preventing or restricting the tenant from having guests;
- intentionally removing or restricting services, or failing to pay bills so that services are cut off;
- forcing the tenant to sign an agreement which reduces the tenant's rights; and
- allowing the property to fall into disrepair so the tenant cannot safely continue to live there.

> Temporary discomfort or inconvenience is not a basis for a breach of quiet enjoyment.

9.2 Damages for breach

Situations might arise where a tenant feels a landlord, his or her employees, or other tenants have breached the tenant's right to quiet enjoyment. In these cases, a tenant may use the dispute resolution process to apply to the Residential Tenancies Office (RTO) for reasonable compensation.

When making a decision on whether to reduce the value of a tenancy, the RTO will consider:

- the seriousness of the situation;
- how long it occurred; and
- the degree to which the tenant has been inconvenienced.

A landlord would not normally be held responsible for the actions of other tenants or employees/agents hired by the landlord unless first notified that a problem exists. Although, it may be enough to show proof that the landlord was aware of a problem and failed to take reasonable steps to correct it. A landlord would not be held responsible for interference by an outside party that is beyond his or her control.

Topic 10

Cannabis and residential tenancies

As a landlord or tenant, it's important to understand the laws and regulations that apply to growing and consuming cannabis in rental units. Tenants and landlords should also discuss potential issues together and put what they agree to in writing. They can do this by either amending an existing tenancy agreement or including rules on cannabis in any new tenancy agreement.

10.1 Cannabis legislation

Federal and territorial laws, as well as municipal bylaws, work together to regulate how cannabis is grown, sold and used in Yukon. Yukon's territorial legislation is the *Cannabis Control and Regulation Act*. It regulates the personal cultivation, possession, consumption, retail and distribution of cannabis in Yukon.

10.2 *The Residential Landlord and Tenant Act*

When it comes to renting and cannabis, the *Residential Landlord and Tenant Act* still plays the primary role in regulating the landlord and tenant relationship through tenancy agreements.

> If a landlord and tenant cannot reach agreement on an issue, either party can apply for dispute resolution with the Residential Tenancies Office.

The Act allows landlords to restrict activities that can affect their property, their enjoyment of their property or interfere with neighboring tenants. This includes restricting activities related to cannabis. The Act is also clear that when restricting these activities, landlords must respect tenants' right to not be interfered with.

10.3 Consuming cannabis in rental units

Tenancy agreements under the *Residential Landlord and Tenant Act* can set **reasonable rules** including whether to allow, prohibit, or limit tenants consuming cannabis within rental properties. Consuming cannabis includes smoking, vaping, ingesting, or use in any form. Landlords and tenants should also know the following.

- A tenant can legally consume cannabis in a rental unit if a landlord has not specifically restricted a form of its consumption.
- Tenancy agreements that include "no smoking" rules will include smoking and vaping of cannabis unless the landlord and tenant agree otherwise in writing.
- Residents are not allowed to consume cannabis in any common interior areas (e.g. hallways, stairwells) of any multi-unit residential building.

10.4 Growing cannabis in rental units

The *Cannabis Control and Regulation Act* allows households to grow up to four cannabis plants. However, tenancy agreements under the *Residential Landlord and Tenant Act* allow a landlord to restrict or limit tenants growing cannabis on the property. If a tenancy agreement doesn't specifically address growing cannabis, the law allows tenants to grow up to four plants in their unit, unless:

- a tenant's growing cannabis is causing unreasonable disturbance to other residents or damage to the property;

- there is a specific law or bylaw prohibiting growth on the property.

Tenants who grow cannabis plants in their rental units must follow any terms set out in their tenancy agreements, as well as the *Cannabis Control and Regulation Act* and regulations.

> Condominium owners are only covered by the *Residential Landlord and Tenant Act* if they are renting their condo unit. For more information, condo owners should consult with their respective condominium boards or legal counsel.

It is important to remember that it is four plants **per household**, not per person. For example, the law does not allow two adults living in the same home to grow eight plants.

10.5 Mobile home tenancies

The following applies to the use and growth of cannabis and mobile home tenancies.

- A mobile home owner who rents a mobile home pad is allowed to consume and grow cannabis within his or her mobile home in compliance with the *Cannabis Control and Regulation Act*.
- However, as with other tenancies governed by the *Residential Landlord and Tenant Act*, a mobile home pad owner (landlord) can restrict or limit cannabis growth and consumption on mobile home pad areas that lie outside the mobile home itself.
- A mobile home pad owner cannot unreasonably restrict the rights of mobile home owners to consume or grow within the mobile homes they own.
- Mobile home owners who rent their homes to tenants may restrict or limit growing and consuming cannabis, just as other landlords may.

10.6 Tenancies in condominiums

A condominium corporation has the authority to make condo policies and bylaws restricting the consumption and growth of cannabis under the *Condominium Act*.

Condo owners should clearly include corporation declarations and bylaws in tenancy agreements. These must be clearly communicated to the tenant to be enforceable.

A condo owner who rents a unit to tenants may restrict or limit growing and consuming cannabis within the unit, as would any other landlord.

10.7 Rental property safety and other residents

Even if a landlord allows tenants to grow or consume in a rental unit, tenants must do so in a safe and responsible way.

If a landlord becomes concerned that cannabis-related activities are jeopardizing the safety of the property, or interfering with the rights of other tenants, the landlord should raise the issue with the tenant. If the issue persists, a landlord can potentially issue notice to a tenant to end the tenancy.

For example, if a tenant has modified ventilation or an electrical system without the landlord's consent, smoked in a restricted area or otherwise violated the tenancy agreement with respect to cannabis, a landlord could potentially issue a notice to end the tenancy.

Topic 11

Domestic violence and residential tenancies

11.1 Emergency housing options

If you are experiencing domestic violence, safety is your first priority before working on tenancy issues. If you need to flee your home and access emergency shelter, the following organizations provide emergency shelter for women and children in Yukon.

1. Yukon Women's Transition Home Society – Kaushee's Place and Betty's Haven
Provides safe, confidential and nonjudgmental support, advocacy and shelter to women and their children who are in crisis and/or experiencing and responding to violence or abuse.

Phone: (867) 668-5733 (crisis line)
Website: www.womenstransitionhome.ca

2. Dawson City Women's Shelter
Provides confidential support and advocacy to women and children in crisis on a 24-hour basis. It also provides emergency shelter.

Phone: (867) 993-5086

3. Help and Hope for Families: Watson Lake Transition Home Society
Provides a 24-hour crisis line, advocacy, information, referrals and support. It also provides emergency shelter.

Phone: (867) 536-7233

11.2 Ending a tenancy

Once you are safe, you may have further questions about what may happen to your tenancy. Tenancies may be ended by mutual consent when a landlord and a tenant agree **in writing** to end the tenancy. In this case, notice periods do not apply. The end date is simply the date both parties agree to.

Tenants can also end a tenancy without mutual written consent if a tenant gives a landlord notice to end the tenancy. This notice **must** be received by the landlord by the day before the rent is due (e.g. if the rent is due on the 1st of the month, the notice must be received by the landlord by the last day of the previous month).

The following notice periods apply for periodic tenancies:

- At least one week of notice for weekly tenancy.
- At least three months' of notice for yearly tenancy.
- At least one month of notice for any other periodic tenancy. (e.g. month-to-month tenancy).

All the notice forms are available from the Residential Tenancies Office (RTO) at yukon.ca. If you are unsure of how to give notice, please contact the RTO for more information by telephone at (867) 667-5944 or toll-free at 1-800-661-0408, ext. 5944 or by email at rto@gov.yk.ca.

11.3 Security deposits

After a tenant has moved out **and** given the landlord a forwarding address in writing, the landlord has 15 days to:

- return the security deposit in full to the tenant; or
- obtain the tenant's consent in writing to retain all or part of the security deposit; or
- apply for dispute resolution with the RTO to have an adjudicator decide if the landlord may keep all or part of the security deposit.

If the landlord does not follow any of the above steps, the tenant may apply for dispute resolution. An adjudicator will decide if the security deposit must be returned. If that is the case, the landlord must return the money to the tenant.

11.4 Negotiating new tenancy terms

If you wish to remain a tenant with the same landlord under new tenancy terms (e.g. changing who you live with), you must:

- negotiate the new terms with the landlord, and
- agree to the new terms in writing.

If you decide to sublet or assign the tenancy to another person to fulfill your contract, you must notify the landlord in writing of your request to assign or sublet your tenancy. You must give the landlord at least one month's notice of your request to sublet or assign the tenancy.

This request must be received by the landlord by the day before the rent is due (e.g. if the rent is due on the 1st of the month, the notice must be received by the landlord by the last day of the previous month).

The landlord **may not** unreasonably withhold consent to assign or sublet the tenancy.

11.5 Assistance with making your home safer

Victim Services can provide assistance to make your rental home or apartment safer. Examples of this could include helping victims obtaining no contact orders or creating a safety plan with victims and changing the locks (with the landlord's permission).

Victim Services
Phone: (867) 667-8500
Toll-free (in Yukon): 1-800-661-0408 ext. 8500
Email: victim.services@gov.yk.ca
Address: 301 Jarvis Street, 2nd floor, Whitehorse, YT

11.6 Other information about rental homes in Yukon

The RTO is responsible for administering the *Residential Landlord and Tenant Act*, which is the law that most tenancies fall under in Yukon. If you need further information or have a question about the law, please contact the RTO. The RTO respects the privacy of those who contact the Office and may be able to refer you to other service providers, with your consent.

Residential Tenancies Office
Phone: (867) 667-5944
Toll-free (in Yukon): 1-800-661-0408 ext. 5944
Email: rto@gov.yk.ca
Address: 307 Black Street, 1st floor, Whitehorse, YT

Topic 12

Other rights and responsibilities

12.1 Ending or restricting a non-essential service or facility

A landlord can eliminate or restrict a non-essential service or facility so long as the landlord and tenant agree to the compensation amount (generally equivalent to the value of the service being discontinued). However, a landlord cannot eliminate or restrict an essential service.

A tenant may dispute the proposed change by applying for dispute resolution.

12.2 Prohibited fees

Prohibited fees include:

- a fee for the initial set of keys or access device;
- a guest fee (whether guests stay overnight or not);
- a fee for a replacement lock, key or access device if the landlord initiated the replacement.

12.3 Permitted fees

Permitted fees must be specified in the tenancy agreement. Permitted fees include the following.

- Fees for a key replacement or for additional keys, lock or access device. This fee must not be greater than the direct cost of replacing the key, lock or access device.
- NSF (not sufficient funds) fees. If the tenancy agreement includes this as a term, a landlord may charge a tenant the service fee charged by the bank if a tenant's cheque is returned

The landlord may also charge:

- an additional administrative fee up to a maximum of $25 for return of a tenant's cheque; and
- a fee for services requested by the tenant if those services are not required to be provided under the tenancy agreement (e.g. carpet cleaning).

12.4 Additional person joining the household

The tenancy agreement must list all the tenants and should also include the **maximum number of occupants** permitted in the rental unit. If the landlord plans to increase the rent when more people move in, the amount must be written into and form part of the tenancy agreement at the start of the tenancy.

If there are more occupants in the rental unit than the maximum number specified in the tenancy agreement, this will likely constitute a breach of a material term and the landlord may serve the tenant with a 14-day notice to end the tenancy for cause.

12.5 Overcrowding

The number of people residing in the rental unit must not exceed the number permitted under the fire code established under the *Fire Prevention Act* and other applicable health and safety standards.

Topic 13

Subletting or assigning a tenancy

A **sublet** is when the original tenant ("Tenant #1") rents out the rental unit to a new tenant ("Tenant #2"). Tenant #1's tenancy agreement with the original landlord continues to exist while the new subletting Tenant #2 lives there. The original Tenant #1 becomes a landlord to the subletting Tenant #2 and must have a written tenancy agreement with Tenant #2. Thus, there are two distinct tenancy relationships and agreements:

- between the original landlord and Tenant #1; **and**
- between Tenant #1 (now the 2nd landlord) and Tenant #2.

*There is no tenancy agreement or landlord/tenant relationship between the original landlord and Tenant #2.

An **assignment** is where the original tenant gives up the rental unit to a new tenant who continues under the existing original tenancy agreement. The original tenant's obligation to the landlord ends. The contractual relationship that continues is between the original landlord and the new tenant. The new tenant is not responsible for actions or failure of the original tenant prior to the assignment date. However, the parties **must** amend the original tenancy agreement to clearly indicate that the tenancy agreement continues, but that the parties have changed.

A tenant must have the landlord's **written consent** before subletting or assigning a rental unit to someone else. If the tenant does not get the landlord's consent, the landlord may serve the original tenant with a 14-day notice to end the tenancy.

A landlord cannot unreasonably refuse to sublet or assign a tenancy.

Topic 14

Access

14.1 Tenants and guest access

A landlord must not restrict access to the rental unit by:

- a tenant;
- a tenant's guests; and
- any political candidates or their representatives who are canvassing or distributing material.

A landlord or tenant cannot alter access to a rental unit, such as changing the locks, except by mutual agreement or by a Residential Tenancies Office (RTO) order.

14.2 Landlord access

A landlord may enter a tenant's rental unit after giving proper written notice stating the date, time and reason for the entry. The tenant must receive the written notice at least 24 hours, and not more than seven days, before the time of entry. The purpose of the entry must be reasonable and the entry can only be between 8 a.m. and 8 p.m. (unless the parties otherwise agree). Where proper notice has been given to the tenant, the landlord can enter whether the tenant is home or not.

The landlord can also enter:

- with the tenant's consent;
- with an RTO order; and
- if an emergency exists and the entry is necessary to protect life or property.

A landlord does not have to give a tenant notice to access common areas on the residential property.

Topic 15

Locks

15.1 When moving in

The landlord must provide each tenant with a key or access device to the building and the unit at no cost.

15.2 Changing locks

The landlord and the tenant must not change locks on the rental unit without the other's written permission.

If a tenant changes the locks without approval, the landlord can give written notice that the tenant has contravened the *Residential Landlord and Tenant Act* and must correct the situation within a reasonable period. The tenant must change the locks back and pay for the work done or give the landlord keys to the new locks. If the original lock was keyed to a master key, the tenant may need to restore the original lock and could be liable for the cost of replacement keys if the landlord is required to change the locks.

Topic 16

Notice to end tenancy

Both tenants and landlords can give notice to end a tenancy.

There are strict rules on what kind of notice you must give, when you need to give it, and how you provide notice to the other party. These rules depend on:

- whether you are the landlord or tenant;
- the type of tenancy you have (fixed-term or periodic); and
- the reasons for ending the tenancy.

Fixed-term vs. periodic tenancy

To understand what kind of notice you can give, you first need to know what kind of tenancy you have.

There are two main categories of tenancies under the *Residential Landlord and Tenant Act* (RLTA) – **fixed-term** and **periodic**. A tenancy agreement must clearly state whether the tenancy is fixed-term or periodic.

Fixed-term tenancy

A fixed-term tenancy has a specific start and end date. Both of these dates must be clearly stated on the fixed-term tenancy agreement. The agreement also identifies whether the tenancy may continue after the end date or whether the tenant must vacate the rental unit on the end date.

With fixed-term tenancies, the law **does not** require either party to give notice to end the tenancy on the end date identified in the agreement. The tenancy simply ends on the stated end date.

Landlords who want to end a fixed-term tenancy with cause must use the Residential Tenancies Office's **14-day notice to end tenancy form**. Tenants may also use this form. The person giving the notice must state on the form the reason for ending the tenancy.

This form is available at the RTO in Whitehorse or online at yukon.ca.

If a tenant or landlord wants to end a fixed-term tenancy before the end date, there must be cause (a legally acceptable reason to do so) or both the landlord and tenant must agree to a new end date in writing.

Periodic tenancy

A periodic tenancy agreement does not state a specific end date for the tenancy. Instead, it clearly identifies whether the tenancy is on a weekly, monthly, yearly or other periodic basis.

Periodic tenancies (typically a month or a year) repeat and continue indefinitely until either the landlord or the tenant gives the appropriate written notice to end the tenancy. If neither party gives the appropriate notice, the tenancy does not end.

Tenants and landlords can end a periodic tenancy if there is cause (a legally acceptable reason to do so) or they mutually agree in writing to end the tenancy.

Tenants may also end a tenancy by giving the appropriate amount of notice (without cause).

Landlords may end a periodic tenancy on 3 months' notice if they or their immediate family member will occupy the rental unit.

Landlords who want to end a periodic tenancy **with cause** must use the RTO's **14-day notice to end tenancy form**. Tenants may also use this form. The person giving the notice must state on the form the reason for ending the tenancy.

Tenants who want to end a periodic tenancy **without cause** must give the required notice time identified below and may use the appropriate form provided by the RTO.

Tenancy period	Notice required	Form
Monthly	One full rental month	One-month notice to end tenancy
Weekly	One full rental week	Modify the one-month notice form
Yearly	Three full rental months	Three-month notice to end tenancy
Other	One full rental month	One-month notice to end tenancy

Landlords who want to end a periodic tenancy in order to occupy, or have their immediate family occupy, the rental unit must use the appropriate form and give the required notice time identified below.

Tenancy period	Notice required	Form
Monthly	Two full rental months	Two-month notice to end tenancy
Weekly	One full rental week	Modify the two-month notice form
Yearly	Three full rental months	Three-month notice to end tenancy
Other	One full rental month	One-month notice to end tenancy

See section 16.3 for more information on how to calculate timelines to end periodic tenancies without cause.

Landlords can no longer end a tenancy without cause. Landlords may only rely on sections 47 and 49 (commonly referred to as the "no cause" provisions) if they or their immediate family will occupy the rental unit.

16.2 Acceptable reasons to end a tenancy with cause

You can give notice to end a tenancy with cause for fixed-term or periodic tenancies. However, if you intend to end a tenancy with cause, you must state on the notice a legally acceptable reason for ending the tenancy.

For tenants

A tenant can give a landlord a **14-day notice to end the tenancy with cause** if the landlord breaches a significant term of a tenancy agreement, such as failing to make necessary repairs to the rental unit or failing to provide services and facilities agreed to in the tenancy agreement.

Before ending the tenancy, the tenant must notify the landlord of the issue, preferably in writing, and give the landlord a reasonable period of time to correct it.

For landlords

A landlord can give a tenant a **14-day notice to end the tenancy with cause** for one or more of the following reasons.

- The tenant does not pay the security deposit within 30 days of the date stated in the tenancy agreement.

- The tenant has not repaired damage as required within a reasonable time.
- The tenant has repeatedly paid the rent late.
- There are more than the maximum number of occupants permitted living in the rental unit.
- The tenant has breached the tenancy agreement and has not corrected the breach in a reasonable time after receiving a demand letter to do so.
- The tenant or the person permitted by the tenant (guest or other occupant allowed in the rental property by the tenant) has seriously affected another occupant, the landlord or an adjacent neighbour with significant interference or unreasonable disturbance.
- The tenant knowingly gives false information to a prospective tenant or buyer.
- The tenant or a person permitted by the tenant seriously jeopardizes the health or safety of the landlord, another occupant or a neighbour.
- The tenant or a person permitted by the tenant puts the landlord's property at significant risk.
- The tenant or person permitted by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property.
- The tenant or a person permitted by the tenant has negatively affected or is likely to affect the quiet enjoyment, security, safety or physical well-being of another tenant, occupant, landlord or adjacent neighbour.
- The tenant or a person permitted by the tenant has jeopardized or is likely to jeopardize a right or interest of another tenant, occupant, landlord or adjacent neighbour.
- The tenant has not complied with an order of the RTO within 30 days of receipt or the date specified in the order, whichever is later.
- The tenant or a person permitted by the tenant has caused extraordinary damage to the property.

Before ending any type of tenancy with cause, the landlord must notify the tenant of the issue, preferably in writing, and give the tenant a reasonable period of time to correct the situation.

If a tenant fails to pay rent on a single occasion, a landlord may give a 14-day notice to end the tenancy. However, if the tenant pays all the outstanding rent within five days of receiving the notice, the notice becomes void and the tenancy continues.

16.3 How to calculate notice timelines for ending a periodic tenancy

Landlords and tenants must legally give the appropriate amount of notice – depending on the tenancy period in place. Notice is based on full rental months. Rental months do not necessarily follow calendar months. Instead, a rental month begins running the day before rent is due.

Monthly tenancies – for tenants

A tenant must give a landlord one full rental month of notice to end a monthly tenancy.

Example: If rent is due July 1, a tenant would have to give one-month notice on or before June 30 and the month of July would represent the full rental month notice period. The tenancy would then end on July 31.

Monthly tenancies – for landlords

A landlord must give a tenant two full rental months of notice to end a monthly tenancy.

Example: If rent is due on July 1, a landlord would have to serve the two-month notice on or before June 30. The months of July and August would then represent the two full rental months of notice and the tenancy would end on August 31.

Year-to-year tenancy

In the case of a yearly tenancy, the tenant must give three full rental months of notice.

Example: If rent is due on July 1, the tenant would have to serve the three-month notice on or before June 30. The months of July, August and September would then represent the three full rental months of notice and the tenancy would end on September 30.

16.4 Exceptions and additional notice timeline requirements

Mobile home site, change in use

If a landlord intends to convert all or a significant part of a mobile home park to a non-residential use or a residential use other than a mobile home park and gives notice for that reason, the law requires a full 18 rental months of notice to end that tenancy.

Condominium conversion

If a landlord gives notice to end a tenancy for a rental unit which is being sold as a condominium unit or part of a condominium unit, the required notice is a full six rental months.

Tenant ceases to qualify for subsidized housing

A landlord may serve a one-month notice (as opposed to the usual two months) to end the tenancy if the tenant ceases to qualify for a subsidized rental unit.

16.5 Written requirements for notices

The RTO provides notice forms to landlords and tenants. When a landlord gives notice, he or she must always use the appropriate RTO form. These are available online at yukon.ca and at the RTO in Whitehorse. Tenants can choose, but are not required, to use RTO forms.

All notices to end tenancies must meet the following written requirements.

- The notice must be in writing.
- The notice must be signed and dated by the party giving notice.
- The notice must state the address of the rental unit.
- The notice must state the date when the tenancy ends (i.e. the move-out date).

In addition, if a notice is given “with cause,” the party giving notice must state the reason in the notice.

16.6 How to serve a notice to end tenancy

For tenants

Whether the tenant ends the tenancy with or without cause, the tenant must ensure the landlord receives **written** notice in one of the ways listed below. This is called "serving" the notice.

- The tenant can provide written notice in person to the landlord or someone who acts as an agent for the landlord. The notice is considered served that day.
- The tenant can provide written notice by registered or regular mail. The notice is considered delivered (served) five full days after the tenant mailed it.
- The tenant can provide written notice as ordered by the RTO. This way of substituted service is typically used in cases where it is not possible to serve the landlord in-person or through the mail.

The tenant should always keep a record of how the notice was served, including how, where and when it was delivered.

If a tenant chooses to only leave a copy of the written notice with the landlord, they must hand-deliver it to the landlord or the landlord's agent. The tenant cannot send an email, leave the notice in a mailbox, or slip the notice under the landlord's door. If the tenant chooses to mail the notice, the RTO strongly recommends the tenant send it by registered mail. Registered mail provides the tenant with a receipt to prove the date on which they mailed the notice.

For landlords

The landlord must ensure the tenant receives **written** notice in one of the ways listed below.

If a landlord chooses to only leave a copy of the written notice with the tenant, they must hand-deliver it. The landlord cannot only send an email, leave the notice in a mailbox, or slip the notice under the tenant's door. If the landlord chooses to mail the notice, the landlord must send it by registered mail. Registered mail provides the landlord with a receipt to prove the date they mailed the notice.

- The landlord can hand-deliver a copy of the written notice to the tenant. In this case, the notice is considered served the same day.
- The landlord can 1) attach a copy to the front door or other noticeable place of the tenant's rental unit **and** 2) send a copy by mail (regular or registered mail) to the address. In this case, the notice is considered delivered (served) five full days after the mailing date.
- The landlord can send a copy of the notice by registered mail to the address of the rental unit or to a forwarding address provided by the tenant. The notice is considered served five full days after the mailing date.
- The landlord can provide written notice as ordered by the RTO. This way of substituted service is typically used in cases where it is not possible to serve the tenant using the regular required means.

The landlord should always keep a record of how they served notice, including how, where and when it was delivered.

16.7 Disputing a notice to end tenancy

If there is a valid reason, a landlord or tenant can dispute the notice to end tenancy by applying to the RTO for dispute resolution.

A **tenant or a landlord** can apply to dispute a 14-day notice to end a tenancy within five days of receiving the original notice.

Tenants can apply to dispute a two- or three month notice to end a tenancy for the landlord or their immediate family to occupy the rental unit. In these cases, the tenant must apply for dispute resolution within 10 days of receiving the notice to end a tenancy. These timelines are based on **calendar days** and **include weekends** and **holidays**.

Landlords can only dispute a tenant's notice to end tenancy without cause if the tenant failed to provide proper notice.

If neither party applies for dispute resolution, both parties are considered to have accepted that the tenancy ends on the date set out in the notice. The tenant must then vacate the unit on the stated date. Writing a letter or talking to the person who gave you the notice to terminate the tenancy is not enough to cancel it and will not extend the deadline to apply for dispute resolution.

Topic 17

When a tenancy ends

17.1 Ending the tenancy

A tenancy can end in the following situations.

- The tenancy agreement is a fixed-term tenancy that specifies the tenant will move out at the end of the term.
- The tenant or landlord gives notice to end a periodic tenancy in accordance with the *Residential Landlord and Tenant Act*.
- When circumstances beyond the landlord's or tenant's control make it impossible for the tenancy agreement to continue (e.g. fire or flood).
- The tenant abandons the rental unit.
- The Residential Tenancies Office grants a landlord an order.
- The tenant and landlord mutually agree in writing to end the tenancy.

17.2 Move-out time

The tenant must move out by 1:00 p.m. on the last day of the tenancy. This means the rental unit must be cleaned and all keys given to the landlord no later than 1:00 p.m. on the last day.

A tenant who has not moved by 1:00 p.m. on the last day of the tenancy could be responsible for any costs incurred by the landlord. These costs could include fees the landlord paid to accommodate the incoming tenant and store their belongings until they were able to move in, or compensation for loss of rental income.

A condition inspection report must be carried out at the end of a tenancy. The RTO recommends using the approved condition inspection report form. This condition inspection report can be used for both move-in and move-out inspections.

17.3 Fixed-term tenancy agreement

A tenant can move out at the end of a fixed-term tenancy without giving notice. If however, the tenant is not required to vacate the rental unit at the end of the fixed-term tenancy and the landlord and tenant have not entered into a new tenancy agreement, the landlord and tenant are deemed to have renewed the tenancy agreement as a month-to-month tenancy on the same terms.

The tenant must have the landlord's written consent to end a fixed-term tenancy on a date other than the agreed date. A tenant who ends a fixed-term tenancy early without the landlord's agreement may be held accountable for loss incurred by the landlord, such as lost rent.

The tenant could also ask the landlord for permission to sublet or assign the agreement.

Both the landlord and tenant have a general duty to mitigate or minimize their respective losses, generally the parties should work together to come up with a suitable solution. In practice, this means that both parties should make reasonable attempts to find suitable replacement tenants.

Topic 18

Order of possession

A landlord may use the dispute resolution process to obtain an order of possession from the Residential Tenancies Office (RTO). An order of possession gives the landlord the right to repossess the rental unit and requires the tenant to move out. Before applying for an order of possession, the landlord must first serve the notice to end the tenancy to the tenant. The landlord may be required to prove that he or she served notice correctly.

18.1 When the tenant does not move out

A landlord cannot physically remove a tenant without an order for possession, even when the tenancy has ended. A landlord also cannot lock the tenant out, take the tenant's property or discontinue essential services (such as electricity or heat).

To have a tenant removed, the landlord must first get an order of possession from the RTO. The landlord must then serve the order of possession on the tenant. If the tenant does not leave by the date noted on the order, the landlord must file the order of possession with the Supreme Court to enforce the order.

18.2 Refusing an order of possession

The RTO may refuse to grant an order of possession in the following circumstances.

- When the landlord's notice to end the tenancy was a result of the tenant making a complaint to a government authority in relation to a violation of health, safety or housing.
- When the landlord's notice was a result of the tenant's attempt to enforce their legal rights.

Topic 19

Return of security deposit

After a tenant has moved out **and** given the landlord a forwarding address in writing, the landlord has 15 days to do one of the following:

- return the security deposit, with interest to the tenant;
- obtain the tenant's consent in writing to any deductions from the security deposit and return the difference to the tenant; or
- apply for dispute resolution asking to keep all or some of the security deposit if the tenant does not agree to the requested deductions.

A landlord who wants to keep some or all of a deposit must either:

- get the tenant's written consent; or
- obtain an order from the Residential Tenancies Office (RTO) to deduct a specified amount from the deposit.

A landlord may want to keep **some** of a deposit to cover:

- damage the tenant, guests or pets caused to the rental unit beyond normal wear and tear;
- unpaid rent, utilities or fuel;
- changing the locks or cutting new keys if the keys were not returned; or
- reasonable costs caused by the tenant moving out without giving proper notice.

A landlord can keep **all of** a deposit if:

- a tenant does not provide a forwarding address, in writing, within six months; or
- a tenant agrees to in writing.

A tenant requires a landlord's written consent to use a security deposit towards the last month's rent.

19.1 Calculating interest on a security deposit

The landlord must calculate the interest owing on the full deposit regardless of any deductions they wish to make.

The interest rate that landlords must pay on security deposits is two percent **below** the Bank of Canada's prime rate (set January 1 and July 1 of each year).

For a complete list of interest rates, please visit yukon.ca/en/security-deposit-interest-rates or contact the RTO at (867) 667-5944 or toll-free at (800) 661-0408 ext. 5944.

The formula used to calculate the interest is: (security deposit amount) x (% rate) divided by (365) x (number of days of the tenancy).

You can find an interest calculator at yukon.ca. Enter the words "Calculate your security deposit interest" into the website's search function to find it.

19.2 Claiming damages against a security deposit (deductions)

In order for a landlord to make a claim against the security deposit for damage to a rental unit, condition inspection reports **must** be completed at both move-in and move-out. Failure to do so will impede a landlord's ability to make a claim through the RTO for compensation for damage.

19.3 Disputes related to security deposits

When a tenant and landlord cannot agree on deductions to a security deposit, either party can apply for dispute resolution to have the matter settled. The landlord must apply within 15 days of the tenancy ending, or receiving the tenant's forwarding address (whichever is later). A landlord who has applied for dispute resolution can hold the deposit until the matter is resolved.

If the landlord does not return the security deposit or makes a deduction without the tenant's written approval and the tenant has given the landlord a forwarding address in writing within six months, the tenant has up to one year from the end of the tenancy to apply for dispute resolution. However, the tenant loses the right to the deposit if a forwarding address is not given in writing to the landlord within six months from the end of the tenancy.

Topic 20

Abandoned property

Abandonment is when the tenant gives up the tenancy and possession of the rental unit without proper notice to the landlord.

When a tenant abandons the unit and owes rent, the landlord can submit an application to the Residential Tenancies Office (RTO) for dispute resolution. This application can ask for reimbursement of the rent and other costs such as cleaning or removal of personal items.

> If the rent has been paid and is current, it is not likely that abandonment will be found.

20.1 Tenant leaves possessions behind

If a tenant appears to have abandoned their possessions, the landlord should itemize and store the items until:

- the tenant comes back to claim the items; or
- the landlord obtains an order from the RTO.

The landlord should also attempt to contact the tenant to have them retrieve their property and document these efforts. A landlord is able to seek compensation from the tenant for any costs incurred with storing the tenant's property.

The landlord should keep a written inventory of any abandoned property and may want to take photographs of the items to document their condition.

After, an application has been made, the RTO may authorize the landlord to remove the property from the rental unit and sell or dispose of it. This only happens if the RTO is satisfied:

- that the landlord has made reasonable efforts to locate the tenant; or
- the landlord has located the tenant but the tenant has not made reasonable arrangements to remove their possessions.

20.2 Landlord's duty of care

When dealing with a tenant's personal property, the landlord should take into consideration the circumstances and the nature of the property.

The law requires the landlord to exercise reasonable care and ensure the property is not damaged, lost or stolen when it is removed and stored.

The landlord must pay any money that remains after any deductions to the RTO. The RTO holds it in trust for the tenant who left the property. The tenant has six months to claim this money, after which it is forfeited.

Topic 21

Resolving a dispute

A landlord and tenant should always try to resolve a disagreement before it becomes a bigger problem.

When trying to reach an agreement, it is helpful to put concerns in writing to the other person and provide any documentation. Keep in mind, the other person might need time to review the information and decide their position. If an agreement is reached, put it in writing and have both parties sign it.

When a landlord or tenant cannot resolve an issue, either party can ask the Residential Tenancies Office (RTO) for assistance. The RTO can answer questions and provide additional information. If this approach does not resolve the disagreement, a person can apply for dispute resolution.

21.1 The dispute resolution process

Dispute resolution is a formal process managed by the RTO. A landlord or tenant must first complete an application for dispute resolution and the RTO must accept the application before the formal process can begin. If the RTO accepts a dispute resolution application, the Office will open a case file. The RTO will then schedule a formal hearing with both parties. At the hearing, a representative from the RTO will hear both sides of the dispute, weigh any evidence and make a neutral, binding decision that is in line with the relevant law.

These are examples of the types of issues that can go to dispute resolution.

- A tenant requests an order requiring a landlord to repair the rental unit.
- A tenant requests monetary compensation from a landlord for a tenancy-related issue or debt.
- A landlord requests an order of possession when a tenant will not move on a specified date.
- A landlord requests monetary compensation from a tenant for unpaid rent or damages.

The dispute resolution process cannot be used when a dispute is between tenants or between occupants sharing a rental unit (i.e. roommates).

21.2 Mediation

At any time during the formal dispute resolution process, before the RTO makes a final decision, the parties involved can choose to settle the dispute themselves. If the parties involved decide to do this, they can ask the RTO to act as a mediator in their discussions. For the RTO to act as a mediator, both parties involved in the dispute must consent to and voluntarily participate in the mediation.

A mediated settlement is a binding agreement that allows the parties to influence the dispute resolution outcome, rather than leave the decision up to the RTO's office.

21.3 Administrative penalties

After the RTO makes a final dispute resolution decision, the parties involved must follow the decision. The RTO can impose an administrative penalty on landlords or tenants who repeatedly disregard an RTO decision or order, or who repeatedly violate the *Residential Landlord and Tenant Act* (RLTA). This penalty can be up to $250 per day, to a total of $2500. The RTO will give notice of an administrative penalty and the landlord or tenant involved must then pay the penalty within 28 days.

Topic 22

Applications for dispute resolution

22.1 How to apply for dispute resolution

A landlord or tenant, or their representative, can apply for dispute resolution. The person applying is called the **applicant**. The person responding to the application is the **respondent**.

> Claims for more than $25,000 must be made through the Supreme Court of Yukon and not the RTO. Parties cannot split their claim into multiple actions.

To apply, the applicant must:

- complete the RTO's application for dispute resolution form;
- provide any relevant evidence with the application;
- submit the applications; and
- pay the filing fee or obtain a fee waiver.

In an application made by a tenant, the **respondent** is the landlord, who may also be represented by the landlord's agent, such as a property manager or building superintendent.

The applicant must be able to provide the names and contact information for the respondents, who are the people with whom the applicant is having the disagreement. If the applicant cannot locate the respondent or does not have contact information, they may need to obtain an order for **substituted service** from the Residential Tenancies Office (RTO). This allows for service outside the usual required methods.

22.2 How to pay the filing fee

The basic fee for applying for dispute resolution is $50. An applicant who is successful at the hearing can request that the respondent pay an additional $50 to cover the cost of the application fee.

There are several ways to pay:

- in person at the RTO (307 Black Street), by credit card, debit card, cash, certified cheque or money order (no personal cheques);
- by mail or courier to the RTO using a money order or certified cheque; or
- by phone, using a credit card.

22.3 Fee waivers

The RTO has full discretion to waive fees in certain circumstances where individuals cannot reasonably afford to pay.

If you would like to apply for a fee waiver, complete a fee waiver application form (available from the RTO). You should attach clear proof of income with this form and submit the fee waiver application with the application for dispute resolution.

The RTO is under no obligation to grant a full or partial fee waiver. The RTO will consider all relevant information then make a decision regarding full or partial fee waiver approval on a case-by-case basis.

Topic 23

The dispute resolution hearing

When a person makes an application for dispute resolution, the Residential Tenancies Office (RTO) sets a hearing date and prepares a package of information for the dispute resolution proceeding, (called the hearing package). Hearings are usually by telephone but may also proceed only in writing.

Both the applicant (the party filing the application) and respondent (the party responding to and defending the application) should be prepared to attend a hearing by telephone. Either or both can have someone representing them at the hearing. This person is called an agent and might be a lawyer, advocate, friend, or relative. If you want to appoint someone to act on your behalf, you must submit this request in writing to the RTO.

23.1 The hearing package

The hearing package contains the following.

1) Notice of hearing letter

- This letter provides the names of the people who are applying for dispute resolution and the other party named in the application.
- The letter also provides date, time, place and telephone numbers and access code for conference call hearings, as well as the date and time written submissions are due.

2) Application for dispute resolution

- The application identifies the type and details of the dispute; and provides any evidence submitted with the application.

It is important to know that the RTO can only provide paper copies of evidence in hearing packages. The RTO cannot make or include any digital copies of evidence, such as digital audio files, digital video files, digital image files. The RTO also cannot make copies of USBs, DVDs or CDs.

If an applicant would like to have such evidence included, they must pay for and make copies of the digital materials themselves. They should then provide these copies to the RTO to include and distribute in the hearing packages.

23.2 Serving the hearing package

The RTO will provide the applicant a copy of the hearing package for their own use, as well as a copy for each respondent named in the dispute. The applicant is then responsible for serving a hearing package on each named respondent.

The applicant must serve the hearing package to each of the named respondents within three days of the RTO making the package available for pickup.

The applicant must use one of the following ways to serve the package to respondents:

- in-person;
- by registered mail;
- by substituted service (see topic 23.3); or
- by another means allowed under the *Residential Landlord and Tenant Act* (contact the RTO for more information).

If the applicant serves the hearing package by registered mail, it must be postmarked within **three days** of when the RTO made the package available.

If an applicant **does not pick up** the hearing package within three days, the application may be considered abandoned and the hearing cancelled. The applicant must contact the RTO if they require alternative arrangements to receive the hearing package.

If the applicant **does not serve** the hearing package within three days, the RTO may dismiss the application.

23.3 Substituted service

A party having difficulty serving a document using the options under the RLTA may apply for an order allowing the document to be served in a different way. A party making such a request must show that they have made reasonable efforts to serve the documents using the service options under the RLTA and that the other party is likely to receive the material through another form of service.

23.4 What happens at a hearing?

Before the hearing, the RTO will provide information on how the parties should conduct themselves during the hearing and give the parties a last chance to reach an agreement.

During a hearing, the applicant and respondent present their case and give the best evidence possible to support their claims. It is against the law to give false or misleading information.

Only relevant and credible evidence will be given weight.

The RTO will base its decision on the testimony and evidence provided at the hearing, the law, and the direction or precedent provided by the Courts.

The RTO may also assist the parties to resolve the dispute and can record any settlement in the form of a decision or order.

You must contact the RTO in writing to request that a hearing be rescheduled or adjourned.

23.5 Monetary claims

The RTO can hear a claim for an amount up to $25,000. A claim for more than $25,000 must be made through the Supreme Court of Yukon. In such circumstances, it is advisable to contact a lawyer and Court Services.

A landlord or tenant has up to one year from the end of the tenancy to submit an application for dispute resolution seeking a monetary claim for debts or damages.

Examples of monetary claims by **landlords** include:

- rent owing; or
- damage that is more than normal wear and tear.

Examples of monetary claims by **tenants** include:

- recovery of all or part of the security deposit; or
- compensation for the rental unit being unusable in part or in whole.

A monetary award will not be given for damage to the tenant's possessions unless the tenant can demonstrate the landlord was negligent and at fault.

Topic 24

Evidence

Evidence is the information presented at the dispute resolution hearing to prove or defend a claim.

It can include spoken testimony from witnesses at the hearing or documents such as written statements, receipts and photographs.

The party who applies for dispute resolution is responsible for proving their claim. After hearing all the evidence presented by both the landlord and tenant, the adjudicator will decide which evidence is stronger or more credible.

Evidence requirements

Written submissions must be legible and must provide relevant facts and details, not just opinions; pages should be numbered. When submitting photographs, it is a good idea to put a number on the back of each photograph (and each copy of the photograph) along with a brief explanation of what is being shown, for example, "carpet stain in living room."

There are special requirements for **digital evidence**. Digital evidence includes photographs, audio recordings, video recordings or any other material on an electronic device that cannot be provided to a dispute resolution proceeding on paper. All parties must be able to view any digital evidence submitted.

Whenever digital evidence is submitted, you must:

- give a written description of the digital evidence to the other party and the Residential Tenancies Office (RTO);
- make sure that both the other party and the RTO can gain access to the files;
- meet all deadlines for services and submission of evidence; and
- pay for and make copies of the digital materials.

> The RTO will not accept physical evidence, such as a piece of carpet or a broken lock.

You may submit photographs or a written description of physical evidence. Each party must give the RTO and each named party written descriptions, photographs and/or expert statements supporting the evidence, as soon as possible and at least ten days before the hearing. If either party misses the deadline set out by the RTO, the adjudicator may refuse to consider the evidence.

Witnesses

Both the applicant and the respondent should provide the RTO, as well as all other parties, with the names of any witnesses they intend to introduce at a hearing.

24.1 Submitting evidence to the Residential Tenancies Office

The RTO must receive a copy of any evidence for a hearing at least **10** full business days before the hearing date, not including weekends and holidays. **Late evidence may not be considered.**

24.2 Serving evidence on the other party

Evidence is served on the applicant and respondents and submitted to the RTO.

The RTO will communicate deadlines for serving copies of evidence for both the applicant and the respondent, and submitting copies of evidence to the RTO. The applicant and the respondent are each responsible for ensuring they meet the deadlines

Copies of all evidence must be served on the other party as soon as possible and at least **10** full days before the dispute resolution hearing. Copies of documents must be clear and readable.

At the hearing, a person must be able to prove that he/she served evidence (a **declaration of service** may be required as proof). If the other party did not get the evidence on time or has not had a fair chance to review it, the RTO may postpone the hearing or not permit the evidence to be considered.

How to calculate the deadline for submitting evidence:

- Count 10 full days before the hearing date.
- Do not count the hearing day.
- Do not count the day when you submit the evidence.

Calendar days are used to calculate deadlines for serving a person, to calculate deadlines for submitting documents to the RTO, or serving documents on a business or office. This is because the RTO and most businesses are closed on weekends and holidays.

The deadline is the date the evidence must be received by the party. A document that is given or served by regular or registered mail is considered received on the fifth day after it was mailed.

Topic 25

Orders and decisions

25.1 A Residential Tenancies Office order

After a hearing, the Residential Tenancies Office (RTO) will issue an order. The decision is final and binding.

In many cases, one or both parties may be partially, but not wholly successful. Generally speaking, only a "substantially successful" applicant will have their application fee covered by the respondent.

25.2 Enforcing a Residential Tenancies Office order

The RTO does not enforce orders.

Once the seven-day review period has passed, if the other party does not comply with the order, the successful party must file the order with the Supreme Court of Yukon and follow court procedures to enforce the order.

25.3 Correction of a decision or order

No one, other than the RTO, has the authority to change a RTO original decision or order.

The RTO may make a correction or clarification on its own initiative.

The RTO does not need to conduct a hearing to:

- correct typographic, grammatical, arithmetic or similar errors in the order;
- clarify the decision or order; or
- deal with an obvious error or inadvertent omission in the decision or order.

25.4 Review of a decision or order

The RTO may review an order only if one of the following grounds applies and is supported by evidence.

- A party was unable to attend the original hearing due to circumstances beyond their control that could not be anticipated in advance of the hearing.
- A party has new and relevant evidence that was **not available** at the time of the original hearing.
- A party has evidence that the RTO decision was obtained by fraud.

To request a review, a party must apply and pay a $75 fee in addition to providing sufficient evidence to support the grounds for the review. A review is not an opportunity to reargue the original case. The process is simply to decide if a new hearing should be held.

> If sufficient evidence is provided, the $75 fee may be waived or reduced if the individual cannot reasonably afford to pay. Please refer to fee waivers in topic 22: applications for dispute resolution.

Topic 26

Police involvement

26.1 When it may be appropriate to involve the police

Police can become involved in a dispute in the following circumstances.

- A landlord legitimately suspects a tenant has passed away.
- A landlord enters a rental unit after serving proper written notice (or alternatively, the landlord needs to enter because of an emergency) and is concerned that a tenant may physically resist this legal entry.
- To respond to a complaint from a landlord or tenant regarding excessive noise, imminent serious damage to property or person.
- To respond to physically threatening confrontations between tenants or between landlords and tenants.
- The landlord reasonably believes that the rental property is regularly being used for illegal activities. In this case, a person can call Safer Communities and Neighbourhoods (SCAN) at 1-866-530-7226. The SCAN unit supports safer communities by investigating and, if necessary, shutting down properties that are regularly used for illegal activities.

26.2 When it may be appropriate to get the Sheriff's Office involved

There are certain circumstances where the Sheriff's Office can become involved. The Sheriff's Office may:

- execute an order of possession from the Residential Tenancies Office (RTO);
- seize properties to enforce a monetary order; or
- serve documents for a fee.

26.3 When it is not appropriate to involve the police or Sheriff's Office

The police and the Sheriff's Office cannot:

- act as a witness;
- make a decision regarding landlord and tenant rights;
- seize properties to compel payment of monetary order (unless there is a court registered RTO order);
- let a landlord into a residential unit to seize personal property or change the locks (unless there is a court registered RTO order).

Topic 27

Housing agency – exemptions and important clauses

"Housing agency" is defined as the Yukon Housing Corporation, Kwanlin Dün First Nation and Grey Mountain Housing Society.

27.1 Rental increases

General rule for a non-housing agency – After the first year of a tenancy, the general restriction is that the rent can only be increased once a year and requires three months' written notice.

Housing agency rule – A housing agency is exempted from the requirements around notice of rent increases, but **only if** the rent of a unit is related to the tenant's income or the income of the tenant's household.

27.2 Subletting/assignment

General rule for a non-housing agency – A landlord must not unreasonably withhold consent to allow a tenant to assign or sublet a tenancy agreement.

Housing agency rule – A housing agency is exempt from the requirement that a landlord not unreasonably withhold consent to allow a tenant to assign or sublet a tenancy agreement.

27.3 Ending a tenancy for cause

General rule for a non-housing agency – The *Residential Landlord and Tenant Act* outlines notice periods required for landlords to end a tenancy, depending on the type of tenancy and the reason for ending it.

Housing agency rule – A housing agency must serve one full month's written notice if it wishes to end a tenancy because the tenant ceases to be eligible for a subsidized rental unit, or if the tenant has not reported or has misrepresented income or other information required under the tenancy agreement to establish eligibility for the subsidized rental unit.

Notes:

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