



Landlord and Tenant Fact Sheet

RTB-124

Re-instatement of Tenancies

10 Day Notice for non-payment of rent

When a tenant does not pay all the rent by the due date, the landlord may serve the tenant a 10 Day Notice to End Tenancy. The notice is automatically cancelled if the tenant pays all the rent owing within five days.

Alternatively, a tenant can apply for dispute resolution within five days of receiving a 10-day notice if the tenant withheld rent:

- to comply with a dispute resolution officer's order;
- to undertake emergency repairs; or
- due to an unlawful rent increase.

A tenant who does not pay all the rent owing or apply for dispute resolution to dispute the notice within 5 days must vacate on the day indicated in the notice, usually within a 10-day period.

A landlord and tenant can agree to reinstate the tenancy if the tenant pays all or some of the rent after the five day period has passed but before the tenant is required to vacate.

When a landlord does not want the tenancy to continue, the landlord must:

1. Clearly tell the tenant that the payment of rent outside the 5 day period, or payment of some of the rent within the five 5 day period, does not cancel the Notice;
2. Specifically tell the tenant that the rental payment is being accepted for the use and occupancy only and does not reinstate the tenancy; and

3. Tell the tenant of one of the following options:
 - The tenant must vacate in accordance with the Notice to End Tenancy, or
 - The tenant must vacate at the end of the month.

If a dispute arises, the landlord must prove the payment was accepted for use and occupation only and not to reinstate the tenancy. Therefore, the landlord should advise the tenant, in writing, that the tenancy is not being reinstated and the tenant must vacate.

1 Month Notice to End Tenancy

Where a landlord has served the tenant with a One-Month Notice to End Tenancy, and then accepts a rent payment for the month after the tenancy was to end, the tenancy will be automatically reinstated unless the landlord specifically tells the tenant that the tenancy is not reinstated and the tenant will have to vacate the premises at a future date.

Order of Possession

An Order of Possession gives the landlord the right to repossess the rental unit and requires the tenant to move out.

When a tenant applies for dispute resolution to dispute a Notice to End Tenancy, the landlord can make a verbal request for an Order of Possession at that hearing if the tenant's application is not successful.

A landlord can also apply for dispute resolution asking for an Order of Possession after the tenant's deadline to dispute the notice has passed or after the tenant disputes the notice.

Residential Tenancy Branch

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

#RTB-124(2009/09)

For more information ...

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

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

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

Visit the RTB nearest you:

Burnaby: 400-5021 Kingsway

Victoria: 1st Floor, 1019 Wharf Street

Kelowna: 305-478 Bernard Avenue

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

All RTB offices are closed on statutory holidays.

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