
This Policy Guideline is intended to provide a statement of the policy intent of legislation, and has been developed in the context of the common law and the rules of statutory interpretation, where appropriate. This Guideline is also intended to help the parties to an application understand issues that are likely to be relevant. It may also help parties know what information or evidence is likely to assist them in supporting their position. This Guideline may be revised and new Guidelines issued from time to time.

Definition of a Fixed Term Tenancy

A fixed term tenancy is a tenancy where the landlord and tenant have agreed that the tenancy agreement will begin on a specified date and continue until a predetermined expiry date. At least one Court has interpreted "predetermined expiry date" to include a provision in the tenancy agreement that the tenancy will terminate as a result of a specified occurrence or circumstance.

Fixed Term Tenancy Agreement

The agreement must state the date the tenancy ends, and whether the tenancy may continue as a periodic tenancy or for another fixed term after that date or whether the tenant must vacate the rental unit on that date. If the parties do not agree that the tenant must vacate the rental unit at the end of the fixed term, and if the parties do not enter into a new tenancy agreement, the tenancy continues as a month to month tenancy.

Ending a Fixed Term Tenancy

During the fixed term neither the landlord nor the tenant may end the tenancy except for cause or by agreement of both parties. For example, during the fixed term a landlord may end the tenancy if the tenant fails to pay the rent when due. A proper Notice to End Tenancy must be served on the tenant. During the fixed term a tenant may end the tenancy if the landlord has breached a material term of the tenancy agreement. The tenant must give proper notice under the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act* (the Legislation). Breach of a material term involves a breach which is so serious that it goes to the heart of the tenancy agreement.

A landlord cannot give notice for owner occupancy or purchaser occupancy that will have the effect of ending a fixed term tenancy before the end of the fixed term. If a landlord wishes to end the tenancy for reasons such as owner occupancy or purchaser occupancy, the landlord must serve a proper Notice to End Tenancy on the tenant. Proper notice in respect of purchaser occupancy includes the pre-requisites to issuance of the Notice to End: any conditions precedent removed from the sales agreement and the purchaser intends in good faith to occupy the rental unit and requests the vendor in writing to issue the Notice to End. The effective date of that Notice will be two months from the end of the month in which the Notice was served but in any case not before the end of the fixed term. The tenant may **not**, during the fixed term, give the landlord a minimum 10 day notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice.

A tenant may not use the one month notice provisions of the Legislation to end the tenancy prior to the end of the fixed term. Any one month notice will take effect not sooner than the end of the fixed term.

Renewing a Fixed Term Tenancy Agreement

A landlord and tenant may agree to renew a fixed term tenancy agreement with or without changes, for another fixed term.

When a Fixed Term Tenancy becomes a Month to Month Tenancy

If, on the date specified as the end of a fixed term tenancy agreement that does not require the tenant to vacate the rental unit on that date, 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.

If the tenant wishes to vacate the premises at the end of the fixed term, but is not otherwise required to vacate the premises at the end of the fixed term, the tenant must give notice of intent to vacate the premises in the rental period prior to the rental period in which the tenant wishes to vacate the premises and not less than one month prior to the end of the fixed term.

Early End to a Fixed Term Tenancy by Agreement

A landlord and tenant may agree in writing to end a fixed term tenancy before its expiry date.

Orders of Possession and Fixed Term Tenancies

In addition to the procedures under the Legislation for terminating a tenancy for cause or for non-payment of rent, a landlord may apply for an Order of Possession in respect of a fixed term tenancy when any of the following occur:

- the tenant has given proper notice to the landlord as a result of a material breach by the landlord;
- the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;
- the landlord and tenant enter into a written agreement specifying that the tenancy agreement shall end on a specified date.

Rent Increases and Fixed Term Tenancies

The rent increase provisions of the Legislation apply to fixed term tenancy agreements. If the parties so agree, the fixed term tenancy agreement may specify that the rent shall continue to be the same amount throughout the fixed term. The parties may not, however, agree that the rent will increase during the fixed term as this would potentially contravene the justified rent increase provisions of the Legislation.

Subletting and Fixed Term Tenancies

A request to sublet the rental unit must be in writing. Under the *Residential Tenancy Act*, where the fixed term tenancy is for six months or more, consent to sublet must not be unreasonably withheld.