

**50. Compensation for Ending a Tenancy**

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The Residential Tenancy Branch issues policy guidelines to help Residential Tenancy Branch staff and the public in addressing issues and resolving disputes under the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act*. This policy guideline may be revised and new guidelines issued from time to time.

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This policy guideline addresses the requirements for a landlord to pay compensation to a tenant under the *Residential Tenancy Act* (RTA) when:

- a landlord ends a tenancy for landlord's use of the property or is granted an order to end a tenancy for renovations or repairs;
- a landlord or purchaser, as applicable, has not accomplished the stated purpose for ending the tenancy within a reasonable period or fails to use the rental unit for the purpose for which the notice was given;
- a landlord is granted an order to end a tenancy for renovations or repairs, the tenant exercises a right of first refusal, and the landlord does not give the tenant a 45 Day Notice of Availability and a new tenancy agreement to sign.

See [Policy Guideline 33: Ending a Manufactured Home Tenancy Agreement – Landlord Use of Property](#) for information on compensation requirements under the *Manufactured Home Park Tenancy Act*.

**A. LEGISLATIVE FRAMEWORK**

Section 49 of the RTA allows a landlord to end a tenancy for "landlord's use." Section 51 of the RTA sets out compensation requirements for landlords who end a tenancy for landlord's use. Section 49.2 of the RTA allows a landlord to obtain an order to end a tenancy in order to complete renovations or repairs. Section 51.4 of the RTA sets out compensation requirements when a section 49.2 order is granted. See parts "B" and "C" below.

Sections 51 and 51.4 of the RTA also require a landlord to pay further compensation to a tenant if the landlord does not prove that they have accomplished the purpose for which the tenancy was ended within a reasonable period or, in some instances, have not used the rental unit for the stated purpose for at least 6 months. The director may only excuse a landlord from having to pay this further compensation if there were extenuating circumstances. See parts "C" and "E" below.

Section 51.3 of the RTA requires a landlord to pay compensation to a tenant if they do not first offer the rental unit to a previous tenant who notified the landlord that they want to exercise their right of first refusal. See part "D" below.

**B. COMPENSATION FOR ENDING TENANCY FOR LANDLORD'S USE OR FOR RENOVATIONS AND REPAIRS**

Section 51(1) of the RTA requires a landlord who gives a notice to end a tenancy for landlord's use under section 49 to pay compensation to the tenant for ending the tenancy. Under the RTA, a tenant who receives a valid notice to end tenancy for landlord's use is entitled to receive from the landlord, on or before the effective date of the landlord's notice, an amount that is the equivalent of one month's rent payable under the tenancy agreement.



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Section 51.4(1) of the RTA entitles a tenant who receives an order to end tenancy for renovations or repairs to receive from the landlord, on or before the effective date of the director's order, an amount that is the equivalent of one month's rent payable under the tenancy agreement.

A tenant who is entitled to receive one month's rent under these sections may instead withhold that amount from the last month's rent. If the tenant ends the tenancy earlier in these circumstances, as permitted by section 50 of the RTA, and before withholding the last month's rent, the landlord must refund that amount.

### **C. ADDITIONAL COMPENSATION FOR ENDING TENANCY FOR LANDLORD'S USE OR FOR RENOVATIONS AND REPAIRS**

A tenant may apply for an order for compensation under section 51(2) of the RTA if a landlord who ended their tenancy under section 49 of the RTA has not:

- accomplished the stated purpose for ending the tenancy within a reasonable period after the effective date of the notice to end tenancy, or
- used the rental unit for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice (except for demolition).

A tenant may apply for an order for compensation under section 51.4(4) of the RTA if the landlord obtained an order to end the tenancy for renovations and repairs under section 49.2 of the RTA, and the landlord did not:

- accomplish the renovations and repairs within a reasonable period after the effective date of the order ending the tenancy.

The onus is on the landlord to prove that they accomplished the purpose for ending the tenancy under sections 49 or 49.2 of the RTA or that they used the rental unit for its stated purpose under sections 49(6)(c) to (f). If this is not established, the amount of compensation is 12 times the monthly rent that the tenant was required to pay before the tenancy ended.

Under sections 51(3) and 51.4(5) of the RTA, a landlord may only be excused from these requirements in extenuating circumstances.

### **Reasonable Period**

A reasonable period to accomplish the stated purpose for ending a tenancy will vary depending on the circumstances. For instance, given that a landlord must have the necessary permits in place prior to issuing a notice to end tenancy, the reasonable period to accomplish the demolition of a rental unit is likely to be relatively short. The reasonable period for accomplishing repairs and renovations will typically be based on the estimate provided to the landlord. This, however, can fluctuate somewhat as it was only an estimate and unexpected circumstances can arise whenever substantive renovations and repairs are undertaken.

A reasonable period for the landlord to begin using the property for the stated



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purpose for ending the tenancy is the amount of time that is fairly required. It will usually be a short amount of time. For example, if a landlord ends a tenancy on the 31<sup>st</sup> of the month because the landlord's close family member intends to move in, a reasonable period to start using the rental unit may be about 15 days. A somewhat longer period may be reasonable depending on the circumstances. For instance, if all of the carpeting was being replaced it may be reasonable to temporarily delay the move in while that work was completed since it could be finished faster if the unit was empty.

### **Accomplishing the Purpose/Using the Rental Unit**

Sections 51(2) and 51.4(4) of the RTA are clear that a landlord must pay compensation to a tenant (except in extenuating circumstances) if they end a tenancy under section 49 or section 49.2 and do not accomplish the stated purpose for ending the tenancy within a reasonable period or use the rental unit for that stated purpose for at least 6 months.

Another purpose cannot be substituted for the purpose set out on the notice to end tenancy (or for obtaining the section 49.2 order) even if this other purpose would also have provided a valid reason for ending the tenancy. For instance, if a landlord gives a notice to end tenancy under section 49, and the stated reason on the notice is to occupy the rental unit or have a close family member occupy the rental unit, the landlord or their close family member must occupy the rental unit for at least 6 months. A landlord cannot convert the rental unit for non-residential use instead. Similarly, if a section 49.2 order is granted for renovations and repairs, a landlord cannot decide to forego doing the renovation and repair work and move into the unit instead.

If a section 49.2 order is granted, the renovations or repairs that are accomplished must be the renovations or repairs that required vacant possession so that there was authority to grant the section 49.2 order. A landlord cannot obtain a section 49.2 order to end a tenancy for renovations or repairs and then only perform cosmetic repairs or other minor repairs that could have been completed during the tenancy.

A landlord cannot end a tenancy for the stated purpose of occupying the rental unit, and then re-rent the rental unit to a new tenant without occupying the rental unit for at least 6 months.

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**D. TENANT COMPENSATION: NO RIGHT OF FIRST REFUSAL**

When a landlord of residential property containing 5 or more units obtains an order of possession from the RTB under section 49.2 for renovations and repairs, section 51.2 of the RTA provides the tenants with a right of first refusal to enter into a new tenancy agreement for the rental unit when the renovations or repairs are complete.

If a tenant exercises their right of first refusal by giving the landlord notice in the approved form (RTB 28) before vacating the rental unit, the landlord must give the tenant at least 45 days before the completion date of the renovations and repairs:

- a notice of the availability date of the rental unit (form RTB 35), and
- a tenancy agreement to sign that will commence on the availability date.

If the landlord does not fulfill these requirements, they must pay the tenant compensation equal to 12 months' rent payable under the former tenancy agreement, unless the landlord's failure was due to extenuating circumstances.

**E. EXTENUATING CIRCUMSTANCES**

An arbitrator may excuse a landlord from paying additional compensation if there were extenuating circumstances that stopped the landlord from accomplishing the stated purpose within a reasonable period, from using the rental unit for at least 6 months, or from complying with the right of first refusal requirements. These are circumstances where it would be unreasonable and unjust for a landlord to pay compensation, typically because of matters that could not be anticipated or were outside a reasonable owner's control. Some examples are:

- A landlord ends a tenancy so their parent can occupy the rental unit and the parent dies one month after moving in.
- A landlord ends a tenancy to renovate the rental unit and the rental unit is destroyed in a wildfire.
- A tenant exercised their right of first refusal, but did not notify the landlord of a further change of address after they moved out so they did not receive the notice and new tenancy agreement.

The following are probably not extenuating circumstances:

- A landlord ends a tenancy to occupy the rental unit and then changes their mind.
- A landlord ends a tenancy to renovate the rental unit but did not adequately budget for the renovations and cannot complete them because they run out of funds.

**E. VACATE CLAUSES**

There are no notice, compensation or minimum occupancy requirements if a fixed term tenancy agreement includes a vacate clause. Vacate clauses are only allowed in limited circumstances. See [Policy Guideline 30: Fixed Term Tenancies](#) for more information.

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**F. LIMITATION PERIODS**

Under section 60 of the RTA, the limitation period for filing an application for dispute resolution is two years from the date the tenancy ends or is assigned. There are no different limitation periods for these types of compensation claims. Additionally, a respondent to a claim can file a counterclaim even if outside of the two year limitation period so long as the original claim was filed within the limitation period and the dispute resolution proceeding of that original claim has not concluded.

**G. CHANGES TO POLICY GUIDELINE**

<b>Section</b>	<b>Change</b>	<b>Notes</b>	<b>Effective Date</b>
All	New	New policy guideline	2018-05-17
All	Am	Added reference to MHPTA	2018-06-06
E	New	New information on fixed term tenancies	2018-10-25
All	Am	Updated to reflect new RTA sections 49.2 and 51.4 and amendments to section 51	2021-07-01

Change notations

am = text amended or changed

del = text deleted

new = new section added