

Tenant's Belongings

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What are the rules for belongings left behind by a tenant?

The *Residential Tenancies Act* sets out specific procedures on how a landlord must deal with abandoned belongings. The following describes specific circumstances and the steps a landlord is required to take:

Rental Unit Vacated

The *Residential Tenancies Act* states that where a tenant has **vacated** a rental unit under the following circumstances:

- Pursuant to a notice of termination given by the landlord or the tenant; **or**
- By agreement with the landlord to terminate the tenancy; **or**
- Pursuant to an order of the Landlord and Tenant Board terminating the tenancy or evicting the tenant; **and**
- has left belongings in the unit, the landlord will be permitted to sell the belongings, retain them for the landlord's own use, or otherwise dispose of the abandoned property.

Where the tenant has been evicted pursuant to an order of the Landlord and Tenant Board, the landlord must wait **72-hours** after the eviction before selling, retaining or disposing of the property. The landlord must make the evicted tenant's property available to be retrieved at a location close to the rental unit (Section 41). Landlords are required to give the tenant access to their belongings between the hours of 8 am and 8 pm during the 72-hour period.

If a landlord fails to allow the tenant access to their belongings during the 72-hour period following the eviction by the sheriff's department, the Board may do one or more of the following:

1. Order that the landlord not breach the obligation again;
2. Order that the landlord return the former tenant's property that is in the possession of the landlord;
3. Order that the landlord pay a specified sum to the former tenant for,
 - a. The reasonable costs that the former tenant has incurred or will incur in repairing or replacing the former tenant's property that was damaged, destroyed or disposed of as a result of the landlord's breach, and
 - b. Other reasonable out of pocket expenses the former tenant incurred or will incur as a result of the landlord's breach.
4. Order that the landlord pay the Board an administrative fine not exceeding the greater of \$10,000 and the monetary jurisdiction of the Small Claims Court;
5. Make any order that it considers appropriate.

Rental Unit Abandoned

A landlord must have considerable proof of abandonment before he/she can re-rent the unit or deal with the tenant's property that is remaining in the unit. A rental unit is not considered abandoned if the tenant is not in arrears of rent.

The *Residential Tenancies Act* states that if the landlord believes that the tenant has abandoned the unit he/she can do one of the following:

- a) apply to the Landlord and Tenant Board for an order terminating the tenancy; **or**
- b) give notice to the tenant and to the Landlord and Tenant Board of his intention to dispose of the belongings.

The *Residential Tenancies Act* states that if the tenant has abandoned the unit, the landlord may dispose of any unsafe or unhygienic items immediately. The landlord must wait **30 days** after either obtaining an order from the Landlord and Tenant Board or giving the notice before selling, retaining or disposing of other items.

The tenant may contact the landlord any time within the 30-day period to retrieve his/her belongings and the landlord must make the tenant's belongings available to the tenant at a reasonable time and at a place close by the unit.

The landlord is permitted to require the tenant to pay any outstanding rent, plus any reasonable out-of-pocket expenses incurred by the landlord for moving and storage costs before the tenant is allowed to retrieve the belongings.

The *Residential Tenancies Act* also requires that if the tenant claims any of the property that the landlord has sold within **six months** of the tenant's abandonment, the landlord must pay to the tenant the amount of the proceeds of the sale, after deducting the amount for any arrears of rent owing and/or the landlord's reasonable out of pocket expenses for moving, storing, securing or selling the property (Section 42).

Death of a Tenant

If a tenant dies and there are no other tenants in the unit, the tenancy is deemed to be terminated **30 days** after the death of the tenant (Section 91).

- The landlord must preserve any property of the tenant who has died other than property that is unsafe or unhygienic
- The landlord must provide reasonable access to the rental unit to allow the executor of the estate or family member to remove the tenant's property (Section 91).
- The landlord is permitted to sell, retain for the landlord's own use or dispose of the property once **30 days** has passed from the day the tenant died.
- The *Residential Tenancies Act* states that if within **six months** of the tenant's death the

executor or administrator of the tenant's estate or a family member claims any of the property that the landlord has sold, the landlord shall pay to the estate the amount of the proceeds from the sale, after deducting the landlord's reasonable out of pocket expenses for moving, storing, securing or selling the property, and/or any arrears of rent owing.

- Where the landlord has retained the belongings for his/her own use, if the executor or administrator of the tenant's estate or a family member claims the property, the landlord shall return the property to the tenant's estate (Section 92).

Note: The *Residential Tenancies Act Regulations* has established rules that define how to address a situation where the tenant dies and leaves a spouse/partner who has also occupied the rental unit as their primary residence. The spouse living in the unit becomes the tenant unless the spouse vacates in 30 days.

The **Residential Tenancies Act Fact Sheets** are intended to help landlords learn and understand their rights and responsibilities.
They provide general information not legal advice.