



Sharing Kitchen and/or Bathroom

Is the law different when the landlord and tenant have to share kitchen and/or bathroom facilities?

Several exemptions to the legislation are defined in Section 5 of the *Residential Tenancies Act*. The law excludes rental agreements that require the owner of the property or members of the owner's immediate family to share a kitchen and/or bathroom facility with a renter. The *Residential Tenancies Act* states the following:

This Act does not apply with respect to,

- (i) living accommodation whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent or the spouse's child or parent, and where the owner, spouse, child or parent lives in the building in which the living accommodation is located.*

How do owners who are exempt from the legislation terminate a rental relationship? There are no specific guidelines for the termination of the rental arrangement because it is exempt. Common law practices do apply, it is suggested that landlords give notice equal to the rental period - one week's notice for a weekly tenancy, one month's notice for a monthly tenancy. Landlord's Self-Help Centre strongly recommends the occupant/renter be informed of the owner's intention to terminate the rental agreement in writing and the owner keep a copy.

Is there any specific form or notice that must be given in an exempt situation?

There is not any particular form that must be used when giving notice to vacate. Landlord's Self-Help Centre recommends that the owner specify the date the occupant/renter must leave the premises and advise that the rented premises are exempt from the *Residential Tenancies Act* because facilities are shared with the owner or members of the owner's immediate family.

How much notice is needed to terminate an exempt tenancy?

Since the *Residential Tenancies Act* does not govern this type of rental accommodation, the notice provisions and notice periods established in the Act do not apply. Landlord's Self-Help Centre suggests that the owner rely on their good judgment when terminating an exempt rental agreement.

What happens if the renter refuses to vacate after receiving notice?

If the renter/occupant fails to vacate the premises after notice is given, the owner may take steps to recover possession of the premises. The owner may change the locks to the premises once the date of termination has passed, however, this may result in police involvement. Landlord's Self-Help Centre strongly recommends that the owner be prepared with the documentation that will support his/her claim to exempt status if police assistance is sought. Landlords should assemble the following documentation:

- the Deed or Title to the property;
- a copy of subsection 5(i) of the *Residential Tenancies Act*;
- and ▪ a copy of the written notice given to the tenant.

Note: Property owners often seek the assistance of the police prior to changing the locks in anticipation of the need for their assistance. The police are not obliged to assist with the recovery of a rental unit and may be reluctant to do so.

What action can be taken by the renter if they do not want to vacate?

The occupant/renter may dispute that the rental agreement is excluded from the *Residential Tenancies Act*. A landlord or a tenant/occupant may apply to the Landlord and Tenant Board to determine whether the Act applies. The **Form A1 - Application About Whether the Act Applies** may be filed with the Landlord and Tenant Board either by a landlord or tenant. The application is used to determine whether the *Residential Tenancies Act* applies to a particular rental unit or situation, it was not established exclusively for exemption questions.

The process for filing such an application involves the following steps:

- An A1 Application must be completed and filed with the Landlord and Tenant Board. The application must contain details about why the applicant believes the *Residential Tenancies Act* does or does not apply.
- The applicant must pay a \$53 filing fee to have the application processed and hearing date scheduled.
- The Landlord and Tenant Board will issue a Notice of Hearing. Unless other instructions are provided, the Landlord and Tenant Board will issue a Notice of Hearing to all parties.
- An adjudicator will preside at the hearing. These hearings are generally conducted in person.
- Once the adjudicator has heard the parties and reviewed any evidence that may be offered, a decision may be announced at the hearing. Generally, the parties to the application will receive the Board's written decision or order by mail within 10 days of the hearing. However, members have up to 30 days to issue an order.

How would making an A1 Application and obtaining an order benefit the landlord? If the landlord obtains an order that reinforces the exemption to the legislation, possession of the premises may be easily recovered without opposition from the occupant. An order will provide documentation of the Landlord and Tenant Board determinations for future renters.

Are there any exceptions in which the Residential Tenancies Act would apply, even if I share a bathroom/kitchen?

Yes, the only exception is if the landlord moves into the rental unit **after** the tenant has occupied it. To be exempt from the Residential Tenancies Act, the landlord must be residing in the unit prior to the tenant moving in.

I am the sole leaseholder living in a rented a house. I rent out rooms and do not share kitchen or bathroom with the renters. Does the Residential Tenancies Act applies to these tenancies?

The *Residential Tenancies Act* makes it clear that a rental arrangement between a tenant and a roommate or under-tenant is **not** covered under that act. The definition of "landlord" in Section 2 of that Act now states that a "landlord" includes:

(a) the owner of a rental unit or any other person who permits occupancy of a rental unit, other than a tenant who occupies a rental unit in a residential complex and who permits another person to also occupy the unit or any part of the unit,...

Regardless of any sharing of facilities, a tenant cannot also be a landlord, so the person the tenant rents a unit to would not be considered a tenant. However, common law practices still apply, and reasonable conduct should be exercised wherever possible. When in doubt, it is always wise to file an **A1** application at the Landlord and Tenant Board to determine whether the rental agreement you are in is covered under the Act.

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

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