

Dalhousie Legal Aid Service

Tenant Rights Guide For Legal Professionals

A General Guide to Rental Housing in
Nova Scotia



Tenant Rights Series

This guide is a specialized guide on Tenant Rights for legal professionals and law students. It's purpose is to give concise information on Tenancy matters to people with a legal background. It covers the majority of questions around landlord—tenant issues. This guide is current as of **June 11, 2019**.

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FINDING A PLACE

Before You Sign:

Read the lease and the rules. Never sign anything that you have not read.

Make sure you go through the rental unit and **very carefully document everything** that is damaged. Your landlord should offer to inspect the unit with you on the day you move in, so you should document everything during this inspection.

Rental Application Fees:

Rental application fees are illegal. A landlord cannot ask you for a rental application fee when you are looking for a place to rent (Section 6 of the *Act*).

Sample / Model Units:

Never sign a lease for a rental unit that you have not seen. Ask the landlord if the unit they are showing you is the actual unit you will be moving into, or if it is a “sample / model unit.” If it is a model unit, ask when you will be able to view the unit you will actually be moving into. Also ask why the actual unit is not available for viewing. The landlord has the right to enter an available unit to show it to prospective tenants, so there should be no reason for them to refuse to show you the place they want to rent to you.

Receiving a Copy of the Lease and the RTA:

Your landlord **MUST** give you (or one of your co-tenants if you are sharing a place) a copy of the lease within 10 days of the day you sign the lease (Section 7(2) of the *Act*).

Your landlord **MUST** also give you a copy of the *Act*. If there is more than one tenant, the landlord only has to give a copy of the *Act* to one of the tenants (Section 7(1A) of the *Act*). The landlord can give you a paper or electronic copy (Section 7(1B) of the *Act*). The electronic copy may be a web link to the *Act*. The landlord **CANNOT** charge you money for the copy of the *Act* (Section 7(1A) of the *Act*).

If your landlord does not give you a copy of your lease or of the *Act*, you can end your tenancy. You can terminate the lease either at any time before you receive a copy of the lease or *Act*, or with one full-months' notice after you have received a copy of the lease and act from the landlord.

Utilities:

When you are looking for a place to rent make sure to always ask what utilities are included. Make sure that the lease clearly says which utilities are included and which ones are not. For example, if heat and hot water are supposed to be included in the rent, make sure it says so in the lease.

NOTE: Always ask how the unit is heated. This is because a lease might say that heat is included in the lease, but electricity is not. In this case if the unit is heated by electric heaters you will pay for the electricity that the heaters use to heat your place and will end up having to pay for your heat, even though it says heat is included in the lease.

Co-Signers:

A co-signer is someone who signs the lease with the tenant, but is not a tenant. The co-signer does not live in the rental unit. The **co-signer is held legally and financially liable for the rental unit.** This means that if the tenant cannot or does not pay rent, or damages, the co-signer will have to pay for them. The landlord can go after the co-signer, the tenant, or both for unpaid rent.

Getting a co-signer:

A landlord is allowed to ask for someone to co-sign your lease if they have reason to believe that you cannot afford the rent on your own. **A landlord can refuse to rent to you if you do not have a co-signer,** and you can't afford the rent on your own. In these cases to be able to rent the unit you will need someone to be a co-signer.

Being a co-signer:

Be very cautious before you co-sign for somebody. For example, if you co-signed for a friend and they do not pay their rent, by law you will have to pay their rent. Even if the landlord is able to easily claim against the tenant, they could choose to go after you instead if they believe there is a greater chance of recovering from you than the tenant. As a co-signer, you are on the hook for the entire period of the lease. If you want to get out of the agreement, you have to get permission of the landlord, and the landlord will have to sign a new lease with the tenant. A co-signer cannot get out of the agreement on their own.

Payments in Cash:

It is important to document as much as you can when finding a place to rent. This means that you should not make any payments in cash, because even if you get a receipt it is very hard to prove that you made the cash payments. **You should NOT pay for your rent or security deposit in cash.** You should avoid paying

anything related to your tenancy in cash so that you can have a way of documenting your payments.

BEING A GOOD TENANT

Documentation:

Document everything! Documentation is crucial to being a good tenant. If you have proper documentation for how you pay your rent, for requests, for repairs, etc., you will be better prepared to defend yourself if you ever need to.

Good things to document:

- Keep receipts of your rental payments.
- When first renting the unit take pictures of the whole unit (including appliances, windows, doors, closets and so on) and send these pictures to yourself so that they are dated.
- If something needs to be repaired take pictures of it.
- Document all important conversations with your landlord. Do this either by corresponding by email, or by writing out any in person or over the phone conversations with your landlord and emailing them to your landlord. This way they are dated and you can refer to them if necessary.

Responsibilities:

- You are responsible for notifying the landlord of any problems with the property. This includes notifying if repairs are needed, or if there are bed bugs, for example. In short, you are responsible for taking reasonable care of the property and notifying your landlord of any problems with the property.

- You are responsible for not bothering your neighbours. Living in an apartment is different than in a house, which means that you need to be more cautious of how much noise you make; if you smoke, where you're smoking; and so on.
- You are responsible for following the landlord's written rules. If you agreed to any landlord-made rules in the lease (like no smoking, or no pets), you have to follow these rules.
- You are responsible for the "ordinary cleanliness" of your rental unit. Lack of cleanliness does not refer to day-to-day housekeeping, but to excessive clutter or filth.
- You are responsible for giving your landlord proper notice for ending your tenancy.

Tenant Insurance:

Tenant insurance covers damage from fire, flood and liability. Liability in this case means that if someone gets injured at your place and they sue you for damages, you will not have to pay the damages, your tenant insurance will. Tenant insurance also covers some types of extensive damage to the property that would not be covered by the security deposit.



Please see our chapter on Ending Your Lease for more information on this.

Many landlords are including tenant insurance as a landlord's rule making the tenant responsible for it. However, even if your lease specifies that you are responsible for tenant insurance, that doesn't mean that you have to purchase it. It means that if you purchase it you will have to pay for it, your landlord will not cover it.

Your landlord cannot evict you for not having tenant insurance, but they could charge you for the costs of damages to the unit that would have been covered by tenant insurance.

NOTE: If you can afford tenant insurance, Dalhousie Legal Aid Service highly recommends you get it.

How to Pay Your Rent — Best Practices:

Do not pay your rent in cash. Even if you get a receipt, it is never a good idea to pay rent in cash.

Safe Ways to Pay Your Rent:

- Cheque
 - Note:** Your landlord CAN legally request post-dated cheques as long as this is stated in the written lease. They can be a problem, because some banks allow them to be deposited early.
- E-mail money transfer
- Direct deposit
- Money order
- If you receive Income Assistance (IA), ask your IA worker to either:
 - ⇒ Pay your rent directly to your landlord, or
 - ⇒ Get a Trustee who will pay your rent directly to your landlord

You MUST pay your rent in full and on time. If you do not pay your rent on time, your landlord can charge you a late payment penalty. However, if your landlord wants the right to charge you a late payment penalty, they must include this information in the lease that you signed. A late payment penalty for late rent can be

no more than 1% of the total rent you pay per month (Section 9(1) (9) of the *Act*). For example, if your rent is \$500, a penalty can be no more than \$5 a month.

LEASES

A lease is a legally binding contract. You should always read a lease before signing it. If you sign a lease, you will be held responsible for everything that you agree to in the lease (as long as it doesn't contradict the Standard Form of Lease or the *Act*). If you or the landlord violate anything in the lease, you or your landlord can ask for a Residential Tenancies Hearing. If there is something in the lease that is not the same on both your copy and the landlord's copy, it is not valid.

Types of Leases:

There are two types of leases:

- **Written:** A written lease is a written agreement and it cannot be modified orally. It can only be modified in writing. The most common form of written lease is the Standard Form of Lease.
- **Verbal:** A verbal lease is a verbal agreement. Legally, a verbal lease gives you the same rights and responsibilities as if you had signed a written, month-to-month, Standard Form of Lease (Section 8 (5) of the *Act*).

Terms of Lease:

The term of a lease refers to how often a lease is renewed. There are three main terms of leases in Nova Scotia:

- Monthly (renewed month to month)
- Yearly (renewed year to year)
- Fixed-term Lease

In monthly and yearly leases, **the lease will automatically renew itself** each month or year (depending on the type of lease) unless you give your landlord proper notice that you will not renew the lease (Section 10A(1) of the *Act*).

Fixed-term leases do not have a notice period. The tenancy period ends on the date stated in the lease. There is no right or obligation to stay in the rental unit after the fixed-term lease ends.

NOTE: Even though verbal leases are legally valid, any agreement you make with your landlord should be either in writing or documented in some way.

Standard Form Lease:

A landlord cannot just make up what must be in a lease. The *Act* sets out the “**Standard Form of Lease.**” It is a form that sets out standardized details for a lease. Landlords in Nova Scotia are supposed to give tenants a “Standard Form of Lease.” You can get a copy at an Access Nova Scotia Centre or online at: <http://novascotia.ca/sns/pdf/ans-rtp-form-P-standard-lease.pdf>

NOTE: If the landlord puts anything in a lease that is inconsistent with the “Standard Form of Lease” or the *Act*, it is **not valid**. Even if you sign it or agree to it, the landlord cannot enforce the invalid term and you do not have to follow it.

A landlord is allowed to put in their own rules, as long as they are reasonable and do not contradict the *Act*. You will be held responsible for those rules if you sign the lease (Section 9A of the *Act*).

What Should be in a Lease:

Contact information for your landlord:

- By law your lease **MUST** state the landlord's name, physical address, and telephone number **OR** the name, physical address and telephone number for someone responsible for the property (Section 7(6) the *Act*).

Occupants:

- The landlord has the right to know who will be living with you in your rental unit. This includes people who will not be responsible for the rent, such as your children. Anyone who will be living with you and is not going to be financially responsible for the rent should be listed as an 'occupant' on your lease.

What's Included:

- Your rent may include things like appliances, utilities, or a parking spot. If something is included in your rent then the landlord is responsible for it. If it is not included, then you are responsible for it. For example, if your lease says heat is included, but parking is not included, this means that your landlord is responsible for providing heat, but not for a parking spot.

Security Deposit:

- The term security deposit means the same thing as damage deposit, or security deposit.
- The lease should state how much money you gave to your landlord as a security deposit. It should also have the date, and the name of the bank the landlord put the security deposit in.

Inspection:

- Your landlord should do an inspection of the unit with you just before you move in. The inspection report should be attached to the lease.
- If no inspection was done it should say so on the lease. See the Finding a Place & Being a Good Tenant Guide for more information.

Reasonable Rules:

- A landlord is allowed to put their own rules in a lease, as long as they are reasonable, relate to the well-being of the building and residents, and are not against the law. Rules have to apply to everyone in the same building. For example, if one person is not allowed to have pets, then no one in the building can be allowed to have pets.

A rule is reasonable if:

- It ensures that services are fairly distributed to all tenants (Section 9A(3) of the *Act*).
- It promotes safety, comfort, and the wellbeing of all tenants (Section 9A(3) of the *Act*).
- It protects the landlord's property from abuse (Section 9A(3) of the *Act*).

Examples of reasonable rules are:

- No smoking; no pets; don't put nails in the wall

Examples of unreasonable rules are:

- You must have a pitched roof on your manufactured home; you can't cook after 10 pm; no Christmas trees before December 15.

All rules must be in writing and the landlord must give you a copy of the rules with the lease. You will be held responsible for those rules if you sign the lease.

NOTE: Rules about smoking and pets are common rules made by landlords. For more information on these go to the sections on Pets or Smoking.

- If the rule is not in the Standard Form of Lease it is not legally required. It is a landlord made rule, you can ask them to change it.
- If you do not agree with a rule, ask to have it changed prior to signing the lease. If the landlord agrees to an amendment of a rule on a lease it is **important to obtain their consent in writing**. That way if there is ever a dispute or disagreement about a rule being broken their consent is documented.

Changing a Lease from Year-to-year to Month-to-month:

In Nova Scotia yearly leases do **NOT** automatically become monthly leases after a year. If you want to change a yearly lease to a monthly lease, you must give your landlord a 3-month written Notice to Quit for your yearly lease, along with a written request to change to a month-to-month lease.

You must give your Notice to Quit **at least three months** before the end of the yearly lease. The lease becomes a monthly lease as of the anniversary date. The anniversary date is the day your lease started and remains the same every year. For example, if you signed your lease on June 1st, your anniversary date is June 1st. This means that even if you gave your notice in January, the lease will not become monthly in April. It will only become monthly on the anniversary date: June 1st, in this case.

Your landlord must respond in writing within 30 days if they wish to refuse. The landlord cannot arbitrarily or unreasonably refuse to give you permission to change to a monthly lease. If you do not receive a response, your landlord is deemed to have consented to your request for a month-to month-lease (Sections 10A(3) and 10A(4) of the *Act*).

NOTE: If you don't give the full 3 months notice your landlord can refuse to change the lease from yearly to monthly, and it will remain a yearly lease.

RENTAL INCREASES

A landlord can only raise the rent once every 12 months.

Your landlord CANNOT raise your rent for the first 12 months after you start your lease. This applies to all types of leases – monthly, yearly and fixed-term (Sections 11(1) and 11(2) of the *Act*).

Your landlord MUST give you **proper written notice** that your rent will increase. This must be done within the proper notice period dictated by the type of lease you have.

Proper Notice Requirements:

- For a **yearly or monthly lease**: 4 months before your anniversary date, and it can only be increased once a year at most.
- For a **fixed-term lease**: Whatever it says in your lease.

Rental Increases for Fixed-Term Leases:

If you sign a fixed-term lease, the rules for rental increases are different than for other types of leases. The original lease that you sign must include the details about when your rent will increase and by how much (Section 11(3) of the *Act*). For example, if you sign a 2-year fixed-term lease, it could set out that you will pay \$800 per month for the first 12 months and then your rent will increase to \$850 per month for the second 12 months. Your landlord does not have to give you notice of the rental increase because you already have the information in the lease.

By How Much Can A Landlord Increase the Rent?:

There are no restrictions on how much a landlord can raise the rent in Nova Scotia. As long as the landlord only raises the rent once every 12 months they can raise it as much as they want. They must give you four months' notice before raising the rent.

Taking Away a Service is the Same as Increasing the Rent:

Some rental agreements include services such as heat, electricity, a parking space or use of a common room. If your landlord decides to stop providing a service but does not lower your rent, it is considered the same as a rental increase under the law (Section 11(5) of the *Act*). Even if you paid extra for the service, a change in the service may be treated as a rent increase.

If your landlord wants to stop providing a service (whether or not it was listed in your lease), they must follow the rules for increasing rent noted above.

NOTE: The landlord has to choose between withdrawing a service OR increasing the rent. The landlord CANNOT do both in the same year.

If the landlord either raises the rent or withdraws a service more than once a year, or doesn't give you proper notice, you CANNOT just refuse to pay the extra rent. You MUST file a complaint to Residential Tenancies using Form J and ask for your rent to be lowered or for your service to be restored. If you do not file a complaint, your landlord could give you an eviction notice for late rent.

SECURITY DEPOSIT

The landlord CAN ask you to pay a security deposit (sometimes called a 'damage deposit') at the beginning of your tenancy.

In Nova Scotia your landlord cannot demand more than one half of the first month's rent as a security deposit (Section 12 (2) of the *Act*). For example, if your rent is \$600, the security deposit can be no more than \$300.

A security deposit is not the last month's rent. **Your landlord cannot demand the last month's rent at the beginning of your tenancy — this is illegal.**

Your landlord cannot ask for extra deposits for things like keys, fire extinguishers, carpets, or pets. However, they can

apply to keep your security deposit if you do not return your keys at the end of the tenancy.

Your landlord also cannot ask or charge an application fee — this is illegal (Section 6(1), of the *Act*).

The only money the landlord can ask for is the rent and the security deposit. Anything else is illegal.

The Landlord Keeping the Security Deposit:

Your landlord can only keep the deposit for damages or unpaid rent. If your landlord wishes to keep your security deposit, and you do not consent, **your landlord is supposed to apply to Residential Tenancies within 10 business days** after the end of your tenancy (Section 12 (6) of the *Act*). If they does not apply within 10 days after the end of your tenancy the security deposit is supposed to be returned (Section 12(7) of the Act). However, there is no penalty if they does not apply within 10 days. Some landlords keep security deposits without filing a claim to keep it.

If your landlord does not return your deposit and you do not agree, you must file with Residential Tenancies, using “Form J: Application to the Director,” to have your deposit returned. You then need to go to a hearing where the Residential Tenancies Officer decides who gets to keep the security deposit.

Normal Wear and Tear:

Security Deposits cannot be kept for ‘normal wear and tear.’

Wear and tear is the normal amount of use or deterioration in a rental unit over time. A good way to think about it, is that no matter how well taken care of, a 10 year old carpet does not look like a new carpet.

Cleaning:

The landlord is entitled to have the unit returned to them only to a state of **ordinary cleanliness** (Section 9(4) of the *Act*). The landlord is not entitled to keep or apply a tenant's security deposit to hire professional cleaning services in order to have the unit returned to them in a state of pristine cleanliness.

However, if the tenant has returned the unit to the landlord in a state below what would be considered ordinary cleanliness, and the landlord requires professional services to restore the apartment to ordinary cleanliness, then the landlord might be entitled to the damage deposit (or a part of it). For example, the landlord may be entitled to apply the security deposit to carpet cleaning fees if the lease dictates that the tenant was required to clean the carpets at the end of the tenancy.

Common Cleaning Issues:

Some common disputes over cleanliness can lead to landlords trying to keep your security deposit, or a part of it, to cover cleaning costs. The most common cleaning disputes that Dalhousie Legal Aid sees are to cover cleaning costs for certain appliances that are hard to clean or that are ignored during cleaning.

These include:

- The inside of the oven
- The inside of the fridge
- Behind appliances
- The bathtub and shower
- The carpet

Make sure to clean these areas to prevent your landlord from holding on to your security deposit.

MAINTENANCE & REPAIRS

Your landlord must keep your unit in a decent state of repair. they must also comply with all applicable health, safety, and housing laws in addition to the *Act* (Section 9(1)(1) of the *Act*).

The unit must be set up for heat, electricity, and water. If a lease states that a service such as heat is included in the rent, the landlord must continue to provide heat and cannot charge extra for it. If the landlord wants to change the lease so that heat is no longer included in the rent, **it will be considered a rental increase** (Section (9)(1)(2) and 11(4) of the *Act*). If the landlord does this they will be required to give 4 months' notice before the anniversary date of your lease (Section 11(2) of the *Act*). If you are in a fixed-term lease, any rental increases must be indicated in the lease (Section 11(3) of the *Act*).

NOTE: Even if you're responsible for paying for the heat in your unit, the landlord is still responsible for the maintenance and repair of the furnace, heaters and etc.

If your landlord is refusing to make necessary repairs you can file a complaint with Residential Tenancies:

- To either have a hearing to receive an Order for you landlord to do repairs or continue a service.
- Or, to request a rental abatement, which is when your landlord pays you for the inconvenience and costs of the repairs.

However, **you cannot withhold rent because your landlord isn't performing a repair.**

Building Inspector:

If you are living in the Halifax Regional Municipality (HRM), you can call HRM customer service at 311. The inspector will give your landlord an order to do the repairs, and if your landlord does not do them within thirty days, HRM will do the repairs and charge your landlord. This is generally faster than going through Residential Tenancies. However, HRM cannot order rental abatements, a continuation of a service not related to building repairs, or payment of rent in trust. For these services you must go to Residential Tenancies.

Pests:

The landlord is responsible for keeping the apartment free from pests. But, your landlord is not liable if there are occasional pests. You can only end your lease if there is a major pest problem.

If your landlord tries to get rid of the pests but is unable to, you can still end the lease (as long as the pests are a major problem). It doesn't matter how much your landlord tries to get rid of the pests. What matters is if they do get rid of them.

Bed Bugs:

Bed bugs are slightly different from other pests. Unlike rats or ants, bed bugs travel with people, so you can be held responsible if you brought the bed bugs with you to the apartment. For example, if you bought used furniture, or took it off the street and this furniture had bed bugs.

The landlord is responsible for treating the unit for bed bugs. The tenant (you) is responsible for damage caused by bed bugs if you brought the bed bugs into the unit. If you did not bring the bed bugs in then you cannot be charged for damages caused by the bed bugs.

Heat:

There are standards for heating throughout Nova Scotia that are different from one municipality to another. For example, in the HRM a landlord has an obligation to turn on the heat whenever the room temperature falls below 20 degrees.

NOTE: As always it is important to document everything. This will help you if your case goes to a hearing or to Small Claims Court. Take pictures, save receipts, documents detailing the repairs, or correspondence asking your landlord to do the repairs.

LANDLORD RIGHT OF ENTRY

The landlord CANNOT enter your unit without proper notice unless they have your permission or there is an emergency.

A landlord can legally enter the tenant's unit for:

An emergency:

- It is hard to define what constitutes an emergency. However, a risk of significant damage to the building itself or someone's life being in danger will be considered emergencies. The landlord **CAN** come into your rental unit **without notice** to deal with the emergency. An example of an emergency which would allow your landlord to come into your unit without notice is if a pipe has burst and there is a risk of flooding the building. It does not matter if you are home or not.

With 24 hours' written notice:

- The landlord CAN come into your rental unit with 24 hours' written notice. They can also send someone in to fix things, like the superintendent, or a hired repairman. In either case they MUST give you 24 hours' written notice. They can only come in to do the repairs during normal daylight hours, 9am to 9pm. The landlord CANNOT force you to let them in to make repairs in the middle of the night (Section 9(1)(7)(b) of the *Act*).

To show the unit to a new tenant:

- If you are going to end your tenancy and move out of your unit, the landlord can bring the prospective new tenants into your unit to show them around. This would only be after you have served the landlord a Notice to Quit, or if the landlord has served you with a Notice to Quit and you haven't challenged it. If you have challenged it then the landlord can't show the unit to prospective tenants until the dispute is resolved. The landlord can only bring people into your unit during normal daylight hours, 9am to 9pm. The landlord does not need to provide you with any notice if they are showing the unit to rent it to a new tenant. It does not matter if you are home or not (Section (9)(1)(7)(a) of the *Act*).

NOTE: You can ask for your landlord to give you notice for when they are going to show your apartment to prospective tenants, but your landlord does not have to give you notice.

ROOMMATES

Be careful when choosing a roommate. **When you sign a lease, you are committing to a legally binding contract.** If you sign a lease with someone you don't know very well, or someone you know is irresponsible, you are taking a risk that could cost you huge amounts of money.

If more than one tenant signs a lease, the law says that they are "jointly and severally liable." This is a legal term that means **roommates are all responsible for the lease, but at the same time any one roommate could be singled out and held responsible for the whole lease.** If a landlord is trying to get money from a tenant – whether it's for late rent, or for damages to the unit – the landlord can choose to go after any one tenant, all the tenants, or just a few of the tenants.

Disputes Between Roommates:

If you have a dispute with your roommate it can be resolved through Small Claims Court NOT through Residential Tenancies. This goes for all types of disputes between roommates, including disputes around rent and utilities.

The applicable legislation is the *Small Claims Court Act (Act)* and the *Small Claims Court Forms and Procedures Regulations (Regulations)*. The *Nova Scotia's Civil Procedure Rules (CPR)* can still apply, but anything in the *Act* will supersede the *CPR*.

Small Claims court can award up to \$25, 000 (Section 9(a) of the *Act*).

Small Claims court cannot give general damages over \$100, e.g. future losses (Section 10(e) of the *Act*).

A claim through Small Claims court is done using the forms on the Courts of Nova Scotia site <https://www.interactivecourtforms.ns.ca/>

Written Roommate Agreements:

It may be a good idea to have a written agreement between roommates outlining. For example, how rent and utilities will be paid, and who gets the parking spot. Having a written agreement is beneficial because it will make it easier to enforce agreed to terms and to distribute expenses if there is a dispute taken to Small Claims Court.

SUBLETTING & ASSIGNMENT

If you need to move out before the end of your lease you can get someone else to move in to your unit. This arrangement can be either a sublet or an assignment of your lease.

The Difference Between a Sublet and an Assignment:

In some provinces the tenant has a right to decide between subletting or assignment. In Nova Scotia the landlord gets to decide between the two. This is not set out specifically in the *Act*, but that's how the court treats it in reality. However, **there are important differences between subletting and assignment:**

- A **sublet** is a type of rental agreement between a tenant and a subtenant. This means that the tenant of a rental unit finds

someone else to rent their unit from them for a period of time. Therefore, in a sublet the original tenant becomes a master tenant and the new tenant becomes a subtenant.

- In a sublet the master tenant is in the middle between the landlord and the tenant. They are a tenant to the landlord and a landlord to the subtenant.
- **What distinguishes sublets from assignments** is that when someone sublets their unit they intend to return to it after a set amount of time.
- Unlike a sublet, an **assignment** is a permanent change to a tenancy. An assignee should sign or enter into a **new** lease with your landlord, and take over the unit once you leave. Your landlord must return your security deposit once the new tenant puts up a security deposit of their own. You should not deal with the new tenant or your old landlord once the assignment has begun.
- For example, if you are going away for 2 months over the summer, but want to keep your unit, you can sublet it to someone else for those two months. But, if you are going away for 2 months over the summer, but don't want to keep your unit and can't end your lease before you go, you can assign it to someone else to take over the lease for you.

NOTE: It is very common for tenants and landlords to use the term subletting instead of assigning. Nevertheless, it is important to try and keep these terms distinct.

Liability for a Sublet:

Subletting your unit is very risky. In a way, it is the worst of both worlds, because you have both the obligations of a landlord and of a tenant.

Your tenancy is still in force under a subletting arrangement, and you are still responsible for damages to the unit, and for paying rent if the subtenant fails to do so. Similarly, you are still responsible for your lease under a sublet. This means that all the rules around notice to quit and eviction will still apply to you. If you do not plan on returning and your subtenant does not plan on staying or renewing after the end of the lease, you are still obligated to give a notice to quit. If rent is not paid to your landlord, then your landlord can still take out evictions proceedings against you.

Rules for Subletting and Assigning:

A tenant has the right to sublet and assign their unit. Your landlord CANNOT unreasonably or arbitrarily refuse to let you assign or sublet your rental unit. However, **you cannot sublet your unit without your landlord's consent** (Section 9(1)(5) of the *Act*). You must tell your landlord that you are going to assign or sublet, and the landlord has the right to approve and meet the subtenant. Your landlord cannot give you a general refusal to sublet or assign your unit, and they cannot refuse to let you assign or sublet to a specific person unless they have a good reason.

Good reasons to refuse a sublet include:

- The subtenant or assignee cannot afford the rent.
- The subtenant or assignee has bad references from his last landlord.
- The subtenant or assignee has a history behavior that makes them a risk to safety and security.

The landlord CAN charge you a sublet or assignment fee. However, they CANNOT charge you more than \$75 as a fee for letting you sublet. You cannot be charged for this unless the landlord actually had to spend money for the new tenant to move in (Section 9(1)(5) of the *Act*; Section 2 of the *Regulations*).

Responsibilities When Subletting or Assigning:

If you are a master tenant it is extremely important that before the sublet begins, you document the state of the place, the payment method, and the contact information for the subtenant (this includes full name, phone number, email and where they work or study). You should also do an inspection of the unit at the beginning of the sublet and at the end of it.

Before you sublet or assign you first need to notify your landlord that you want to sublet or assign your unit. You also need to ask them about the proper procedure to set up a sublet or assignment. This means asking them about specific forms that they might want the subtenant to fill out.

Once you have done this you need to get the landlord's consent in writing allowing for the sublet or assignment to this specific tenant. Your landlord is legally obligated to know who you are subletting to, because they need to know who is living in their building.

NOTE: If your landlord is unreasonably or arbitrarily refusing multiple potential subtenants, you should document this and then go to Residential Tenancies to file for an end to your tenancy.

You can enter into a written lease agreement with the subtenant. If you do this you can set out specific terms such as duration of the sublet arrangement, rent, payment method. It is very important to remember **you are a landlord to the person you sublet to**. All of the obligations of a landlord attach to you. All of the obligations and rights of a tenant under the *Act* attach to your subtenant.

In a sublet the landlord still has obligations to you, and **the landlord can also claim against you** as well as the person you have sublet to. If there is a dispute between a subtenant and master tenant, it has to be resolved through Residential Tenancies. Similarly, you can file a Residential Tenancies claim against either the landlord or the master tenant.

ENDING YOUR LEASE

Ending a Lease in Writing and on Time:

As a tenant, you can end your lease at the end of a rental term, but **you must give your landlord written Notice to Quit**. There are specific forms that are used to give a Notice to Quit to a landlord. In this case the appropriate form is the **Form C**, which you can get on the Access Nova Scotia website.

You must include the date on which you will be ending your lease on your Notice to Quit. You must also give your Notice to Quit to your landlord within the minimum amount of time required by the notice period. The amount of time depends on whether you have a monthly or yearly lease.

Monthly Lease:

If you have a monthly lease then you need to give your Notice to Quit **1 full month** before you wish to move out.

NOTE: A full month is not a calendar month. It is not the same as 30 days. The Notice must be given at least one day before the beginning of the last month before you want to move out. For example, if you are giving notice to end a month-to-month lease, and you don't want to stay past the end of June, and you don't want to pay rent for

July 1st, you must give notice no later than May 31st. Otherwise you will owe rent for July because you have missed the notice period.

Yearly Lease:

If you have a yearly lease then you need to give your Notice to Quit 3 full months before the anniversary date. The anniversary date is the day that you entered into the lease agreement and remains the same for each year after that, regardless of whether you have a monthly or yearly lease.

Fixed-term Lease:

You do NOT need to give notice to end a fixed-term lease. The lease will automatically end on the date specified on the lease.

Your landlord must give you permission to keep renting after the fixed-term is over. If you reach the end date of your lease and your landlord does not ask you to leave, and you do not sign a new lease, your lease will automatically become a month-to-month lease (Section 10A(2) of the *Act*).

In Nova Scotia, a tenant has immediate Security of Tenure. This is a legal term that means that **your landlord CANNOT end your rental agreement unless they have a legal reason to evict you.**

Landlord Ending the Lease:

In other words, there are very few specific reasons for which a landlord can legally serve a tenant with a Notice to Quit. These are:

- Non-payment of rent (Section 10(6) of the *Act*).
- Subletting without the permission of the landlord (Section 10 (7B) (b) of the *Act*; Section 9 (1)(5)) of the *Act*).

- The tenant is found to have breached their obligations under the lease (Section 10(8)(e) of the *Act*).
- The residence becomes uninhabitable because of fire or flood (Section 10(8)(c) of the *Act*).
- The landlord in good faith either requires the premises for themselves or a family member (Section 10(8)(f)(i) of the *Act*).
- The tenant poses a security or safety risk to the landlord or other tenants (Section of the 10(7A) of *Act*).
- The landlord is demolishing or repairing the premises and requires it to be vacant, and has a building permit (Section 10(8)(f)(ii) of the *Act*).

ENDING YOUR LEASE EARLY

If you are in a yearly or fixed-term lease you may find yourself in a situation where you need to move out before your lease is up. In this case you will need to end your lease early. There are a few times when you can end your lease early.

You can terminate your tenancy before the end of the lease if:

- You have health reasons that make you unable to pay the rent or unable to live in the unit (Sections 10B(1) and 10C(1) of the *Act*).
- The landlord fails to uphold a statutory condition like doing repairs, providing heat, or illegally enters the unit (Section 9(1)(7) of the *Act*).
- You assign your lease over to another tenant (Section 9(1)(5) of the *Act*).
- Your landlord can agree to let you move out sooner. If your landlord does agree, make sure to get it in writing.

Health Reasons to End your Lease Early:

To be able to end your lease early for health reasons you must be able to show that your health has deteriorated to the point where it:

- Has reduced your income (Section 10B(1) of the *Act*), OR
- Has made it impossible to live in the unit. For example, I am in a wheelchair and the unit isn't accessible. (Section 10C(1) of the *Act*).

Ending a Lease Due to Domestic Violence:

It is possible to end a year to year or fixed-term lease early because of domestic violence. To do so you must give the landlord one full month notice using Form Q as your Notice to Quit, along with a certificate from Victim Services confirming domestic violence (Section 10F(1) the *Act*).

Applying for Certificate Confirming Grounds to Terminate Tenancy Due to Domestic Violence:

You or somebody else with your consent may apply to Victim Services for the certificate (Section 10H(1) the *Act*).

Grounds for the Director of Victim Services to issue a certificate to the tenant to terminate their lease include:

- The tenant has been granted an Emergency Protection Order by the court, that has not been revoked, and makes the application for the certificate within 90 days of this order being issued (Section 10H(2)(a) the *Act*); or
- The Director is satisfied that all of the following requirements have been met:
 - A) A domestic violence complaint, where the tenant is the victim, has been filed with the police.
 - B) A peace bond order or a no contact order has been issued by the court in which the person alleged to have committed domestic violence is ordered to have no contact with the tenant, and this order is in force.
 - C) The Director has completed an investigation and is satisfied that the tenant is the victim of domestic violence for the purposes of the peace bond or order of no contact (Section 10H(2)(b) the *Act*).

These forms are not available online but are available through Victim Services. If you require the Form Q Notice to Quit and the certificate from the Director of Victim Services, you can call the Victim Services office at 902-424-3307 (if in the HRM), and make an appointment with the intake staff member. At your appointment, a staff member will assist you in filling out the forms.

Victim Services will have access to court records, but if you have a copy of an Emergency Protection Order bring it with you. Unfortunately, the order of no contact must be from the court, if you have an order of no contact issued by an arresting officer that is not sufficient.

No RTA or Lease:

If your landlord does not give you a copy of your lease or of the RTA, you can end your tenancy. You can terminate the lease either any time before you receive a copy of the lease or RTA, or with one full-months' notice after you have received a copy of the lease and act from the landlord.

Your landlord can either give you a hard copy or an electronic copy of the RTA.

NOTE: If you initialed on your written lease that you received a copy of the RTA even if you didn't receive it, you will not be able to end your tenancy, because your initials indicate that you did receive it. So remember to not initial anything you haven't read.

Ending Lease After Death:

If a tenant dies, the lease ends on the last day of the rental period immediately after the period in which the tenant dies (Section 10E of the *Act*). The lease will not automatically renew.

BREAKING A LEASE WITHOUT PROPER NOTICE

Unpaid Rent:

If you break your lease without giving proper notice you still have certain responsibilities. **You will still have to pay rent for the unit until the landlord finds someone else to rent it.** This means that if you move out and your landlord immediately rents the unit to someone else then you will NOT be responsible for rent. By the landlord renting to other tenants, they are considered to have accepted your termination of the lease.

However, if you move out and the landlord cannot find someone to rent the unit, you are responsible for paying the rent for the unit until the date the lease would have expired. The landlord can apply to get an order from Residential Tenancies to get you to pay for any outstanding rent (Sections 10(6D) and 10(6E) of the *Act*). They can do this months after you have moved out to allow for rental arrears (unpaid rent) to accumulate.

The *Act* requires that a landlord take action to reduce the amount of money lost if one of their tenants breaks a lease. This means that if you break your lease your landlord cannot wait around for unpaid rent to accumulate so that they can go after you for it. They need to try and find other tenants to take your place (Section 9(1)(6) of the *Act*). It is only if they can't find any new tenants that you have to pay the lost rent.

Security Deposit:

Your landlord can only keep your security deposit to cover damages or unpaid rent. To do so, the landlord must apply to Residen-

tial Tenancies. Your landlord cannot keep your security deposit if they find someone to rent the unit immediately after you move out. The landlord can only keep it if they cannot find someone to rent the unit after you have moved (Section 12(3) of the *Act*).

If you move out and the landlord tried but does not find other tenants, you are responsible for the rent the landlord lost. The landlord can apply within 10 days of the termination of the tenancy to the Residential Tenancies Board to keep your security deposit to cover outstanding rent (Sections 10(6E)(c) and 12(6) of the *Act*). If the landlord does not do this then the *Act* requires that the security deposit be returned (Section 12(7) of the *Act*).

NOTE: Your landlord might try to keep your security deposit if you break your lease as “a fine” or to try and recover money for the inconvenience. However, **landlords can only keep your security deposit for lost rent or damages** (Section 12 (3) of the *Act*). They cannot keep it for anything else.

Tip:

If you need to end your lease for reasons not protected by the *Act*, your safest bet is to find someone to assign to your lease to (see Subletting and Assigning section for more information). This way you won't have to worry about unpaid rent, your security deposit or your landlord trying to find a new tenant.

EVICTION

If your landlord wants to evict you they must have a good reason to evict you. The legal term for this is “**just cause.**” The reason must be satisfactory to Residential Tenancies.

Your landlord must also give you notice. This is called Notice to Quit. The law sets out the minimum number of days before your landlord can force you to move out. The number of days depends on what reason the landlord has given for evicting you.

If you are being evicted for reasons other than unpaid rent you do not have to leave just because the landlord gave you Notice to Quit. The Notice to Quit for reasons other than unpaid rent (like bad behaviour) is just the landlord requesting that you leave. The landlord cannot force you out, and the landlord **MUST** file with Residential Tenancies to evict you for reasons other than unpaid rent.

If your landlord decides to file with Residential Tenancies then you will have to go to a hearing. Until you receive papers from Residential Tenancies and go to a hearing, you do not have to leave on a particular date. You do not have to move out unless the Residential Tenancies Officer decides in favour of your landlord and orders you to move out.

Eviction for Unpaid Rent:

If you have unpaid rent (sometimes called rental arrears) your landlord can apply to Residential Tenancies for an order to evict you. **Your rent is "in arrears" if any portion of it is not paid**

on the date it is due under the lease, which is usually the first day of the month. Your landlord can evict you if ANY of the rent is unpaid, even if you have paid some of it. To evict you for unpaid rent they need to give you proper notice (Section 10(5) of the *Act*). To give you proper notice the landlord needs to give you a **Form D Notice to Quit**.

A Form D eviction notice for unpaid rent is enforceable. This means that if you do not respond to it you will be evicted without further notice from the landlord. After the notice period has passed the landlord can simply take the Form D to Residential Tenancies and apply for an Order for “Vacant Possession.” Once Residential Tenancies Officer gives the landlord this order, then the landlord can hire the Sheriff to forcibly evict you. Only the Sheriff is permitted to enforce the Order by removing you and your belongings and allowing the landlord to change the locks.

Form D — How to Respond:

When you have to respond to a Form D:

- Yearly, Monthly and Fixed-term lease:

The landlord has to wait 15 days after the unpaid rent was due before they can serve you with a Form D. You then have a 15 day grace period after the notice is issued to respond. **These are calendar days, not business days.**

Ways to respond to a Form D:

You have a 15 day grace period to respond to the Form D. **You have 3 options for how to respond during the grace period:**

- You can accept the eviction notice and move out. If you do this you will still owe your landlord money and they can go after you for it.

- You can pay the rent in full within the 15 day grace period. You will need to pay all of the rent you owe, even if it's from months ago. If you do this the Notice to Quit will be void and you won't have to move out, but you will have to go to the Residential Tenancies Hearing.
- You can make an application to Residential Tenancies at Access Nova Scotia. You can do this to contest or set aside the landlord's Notice to Quit. If the landlord is wrong and you have paid your rent, or if the rent is late for a reason beyond your control, you can apply to Residential Tenancies to ask that the landlord's Notice to Quit be set aside. **You MUST apply to Residential Tenancies within 15 days of the landlord giving you notice.** If you make an application to Residential Tenancies to challenge the eviction you do not have to move out on the date given in the Notice to Quit, but you do have to go to the hearing.
- **If you do nothing you will be evicted.**

NOTE: If you decide to move out instead of dealing with the eviction, you will still owe rent.

Eviction for Reasons Other Than Unpaid Rent:

Behaviour:

- If you are disruptive or behave in a way that interferes with the landlord or other tenants (like causing damage to the property or breaking the landlord's rules) the landlord can give you a Notice to Quit. The behaviour does not have to be illegal for you to get a Notice to Quit (Section 9(1)(3) of the *Act*).

Cleanliness:

- You are responsible for the “ordinary cleanliness” of your rental unit. If you have excessive clutter or your unit is filthy, your landlord can give you a Notice to Quit (Section 9(1)(4) of the *Act*).

Damage:

- You are responsible for repairing any deliberate damage that you cause to your rental unit. You are also responsible for repairing any damage that your guests cause to the unit. If you do not repair the damage, your landlord can give you a Notice to Quit (Section 9(1)(4) of the *Act*)

Subletting without the landlord’s permission:

- You have a right to sublet your rental unit to another person, but you must have your landlord’s permission. If you do not get permission from your landlord, but you sublet anyway, your landlord can give you a Notice to Quit (Section 9(1)(5) of the *Act*).

Safety & security risk:

- If you are doing something that poses a risk to the safety or security of the landlord or other tenants, your landlord can give you a Notice to Quit. However, if the landlord is claiming that you are a ‘safety and security risk’ the Notice to Quit can be for **only 5 days’ notice**. Your landlord **cannot** give you a 5-day Notice to Quit just for doing something illegal. For example, if you were charged with stealing from work that wouldn’t be related to the safety and security of your fellow tenants, so you could not get a Notice to Quit for that (but your landlord could still call the police about it). Your behav-

ior has to be a risk to the safety and security of the landlord or the other tenants (Section 10(7A) of the *Act*).

Building destroyed:

- If the building you live in is destroyed by fire, flood, or other major disaster, then the tenancy is immediately terminated.
- If this happens the landlord will have to give back your rent for the part of the month you were not able to live there. For example, if the building is destroyed on the 10th day of the month, then you should get back 20 days' worth of rent. The landlord must also return your security deposit to you (Section 10(8)(c) of the *Act*).

Landlord needs unit for own use:

- If the landlord needs the property for their own use or for a member of their immediate family, the landlord can apply to Residential Tenancies for permission to evict you.

Major renovations:

- If the landlord needs you to move out to do major renovations, they can file an 'Application to the Director' for a hearing. The renovations have to be major – something that requires a city building permit.

Foreclosure:

- If the landlord's property is seized by the bank or by someone who the landlord owes money to, the bank or business that takes over the property and becomes your new landlord. They can then decide to let your stay or they can give you a 3 month Notice to Quit (Section 10(9) of the *Act*).

Live-in Superintendent employment ends:

- If you work for the landlord and get the use of an apartment as part of your pay (e.g. on-site superintendents or property managers) the landlord CAN give you a 3-month Notice to Quit if your job with them ends. Whether you are fired, laid-off or quit, the landlord can end your tenancy (Section 10(8)(b) of the *Act*).

Fixed-term lease ends:

- If your fixed-term lease has come to an end and the landlord does not want you to stay, he can give you a 15-day Notice to Quit (Section 10(6) of the *Act*).

Form E and F — How to Respond:

The forms for eviction for reasons other than unpaid rent are forms E and F. Both of these forms are Notices to Quit and say that you have to move out in 15 days. However, if you receive either of these forms you do **NOT** actually have to move out within 15 days if you don't want to. **You have 3 options if you receive a Form E or F:**

- You can move out.
- You can do nothing.
- You can apply to Access Nova Scotia to challenge the Form E or F.

A landlord who wants to evict you for reasons other than rental arrears must file with Residential Tenancies using Form J: Application to the Director. If they do this, the law re-

quires them to serve you with the Form J and notice of the date time of the Residential Tenancies hearing (Sections 13(1) and 13 (2) of the *Act*).

If you are served with a Form J by your landlord doing, nothing CAN have consequences. If the Residential Tenancies Officer finds in favor of the landlord's application at a Residential Tenancies hearing, you can be evicted. However, you can respond to your landlord's application by filing your own Form J to set aside your landlord's application to evict you. At a hearing, you can dispute or challenge the landlord's reasons by going to the hearing and giving your side of the story.

Enforcing an Eviction Order:

Only the Sheriff or a Deputy Sheriff can actually remove you from your rental unit. The landlord CANNOT.

If you do not pay all the rent you owe, then the landlord can apply to Residential Tenancies for:

- **An Order of Vacant Possession.** This is an order enforced through the Small Claims Court, which allows your landlord to take possession of your rental space. This means that your landlord can get the Sheriff to remove you and your belongings from the rental property.
- **An Order requiring you to pay unpaid rent.** This allows the Sheriff to put a garnishee on your wages or seize your bank account for any money you owe to the landlord. The Residential Tenancies Officer can also allow the landlord to keep your security deposit and put it toward the money you owe the landlord.

NOTE: It is better to pay your unpaid rent before the landlord contacts the Sheriff, because there are various fees for the Sheriff's service that you will be forced to pay if the Sheriff is needed.

ABANDONED PROPERTY

If you have left property in your old rental unit after you have moved out, it is considered abandoned property. You are not allowed to leave property in the rental unit when you move out, but if you do your landlord or former roommate has certain obligations to take care of it, before **they can sell or throw away your abandoned property.**

Landlord's Obligations:

- Compile an inventory list of all of the items left behind
- Submit the inventory list to Access Nova Scotia
- Send a copy of the inventory list to you (the tenant) or your contact.
- Wait at least 30 days after filing the inventory list to Access Nova Scotia to throw out or sell your property
- The landlord must take reasonable care of the property before disposing of it. What is reasonable depends on the property that is left there. For example, if you left a laptop computer behind the landlord will have to take a higher level of care of it, so they couldn't throw it around or leave it in a damp room that might damage it. On the other hand, if you left behind some old dirty books the landlord is only obligated to hold on to them, they do not have to take special care of them.*

Exceptions to Landlord's Obligations:

The landlord does NOT have to compile an inventory list if the items left behind are:

- Unsafe
- Unsanitary
- Worth less than \$500

If the abandoned property is either unsafe or unsanitary, or valued at less than \$500 the landlord can dispose of it right away.

Best Practices for Abandoned Property:

If you are a landlord or roommate who has been left with abandoned property the best practices are:

- Document what was left there. You don't have to open a box or a suitcase that was left there, but photograph it.
- Make reasonable efforts to notify the person who left the property that you have it. Do this at least three times and document each attempt at notifying the person. Also try to contact them in a variety of ways (over the phone, by email, call their work, etc.).
- Set a reasonable deadline for when the person can pick up the property. Reasonable is at least 30 days, but can be more depending on circumstances. For example, the person went travelling for 4 months and will be back after that; do not throw out or sell the property until they are back.

NOTE: If your landlord has to store the abandoned property they can charge you for the cost of storage.

PETS

In Nova Scotia, unlike some other provinces, landlords can make rules in the lease that do not allow pets. Landlord's can make all sorts of rules around pets, such as only allowing certain sized pets, certain animals for pets, and only allowing pets in certain parts of the building.

NOTE: The landlord can make a new rule not allowing pets, but if there are already pets in the building they will be grandfathered in.

If you have signed a lease with a rule stating that you cannot have a pet, or cannot have a pet without your landlord's consent **do not** bring in or purchase a pet without having it approved by your landlord. Your landlord could evict you for bringing in a pet to a rental unit with a rule that doesn't allow pets.

If you have a pet then consider looking for a pet-friendly rental unit, or talk to the potential landlord first to see if they would be okay with your pet.

NOTE: If you have a written lease and it has a rule that says no pets, **it is NOT enough for you to have a verbal agreement with your landlord that creates an exception for you.** Any exceptions or amendments to a written lease need to be written, if they are only verbal they will not be valid.

SMOKING

Rules about smoking in rental units are similar to those for pets. A landlord is allowed to make rules about smoking in the rental unit. They can make all sorts of rules around smoking, such as only allowing smoking on balconies, or prohibiting smoking during the day.

If you want an exception to a smoking or non-smoking rule in a written lease, make sure the exception is in writing, or else it will not be valid.

Cannabis Use in and around Rental Unit:

With the legalization of recreational cannabis consumption in October 2018 there are questions around recreational cannabis use in rental units.

There are no legal restrictions on cannabis consumption in private residences. However, **landlords do have the authority to amend existing leases to create reasonable rules around recreational cannabis smoking and cultivation.** Landlords generally need to give 4 months notice before the anniversary date to amend a lease. The tenant then has 1 month (after the 4 months' notice period has ended) to either accept the amendments to the lease, or to give the landlord a Notice to Quit and end the tenancy.

What could these rules look like?

If a landlord wants to change an existing lease that says nothing about recreational cannabis use by creating a rule that prohibits recreational cannabis use and cultivation they could do so. They would only have to give the tenants 4 months' notice about the implementation of the new rule. If the rule is reasonable (applies

to all tenants in a fair manner and is clearly expressed) then they can create this new rule.

A landlord can add reasonable rules around cannabis consumption to new leases, without giving notice.

These rules also apply to public housing.

NOTE: If you live in a non-smoking building, this rule also applies to cannabis. So no smoking means no smoking cigarettes or cannabis.

Medical Cannabis Use:

The rules above only relate to recreational use, not medical cannabis use. Landlords cannot create restrictions to medical cannabis use. Medical cannabis use is protected under human rights legislation. This means that if you need medical cannabis to treat a chronic medical condition you can use it in your rental unit.

The only way you could be prohibited for using medical cannabis is if you are smoking it and it is causing a nuisance to others in the building, and there is no other way for you to consume it that would not cause a nuisance.

CO-OPERATIVE HOUSING

What is a Co-op?:

Co-operative housing (a co-op) is a type of not-for-profit housing in which the property is owned by a non-profit association. The association is made up of all of the tenants of the co-op. Once you become a tenant you become a member of the association. This means that the tenants as a whole are the landlord of the property. The idea behind this is that the tenants own the property in a way.

The association has an executive council made up of some of the co-ops tenants, and this council runs the building. In addition, one thing co-ops do is set aside a portion of everyone's rent and put it into a trust fund that tenants can then use for repairs.

If you live in a co-op then you are covered by the *Act*. You are also covered by the Co-operative Associations Act.

Co-ops are exempt from rules of subletting and assignment in the RTA. Co-op tenants are not allowed to sublet or assign their residences.

Evictions from Co-ops:

In order to be evicted in a co-op you first have to have your membership in the co-op revoked by the co-op association according to the procedure prescribed by your co-op's mandate.

PUBLIC HOUSING

What is public housing?

Public housing is a form of subsidized housing. It is commonly known as ‘**Housing.**’ It is housing that is owned or subsidized by the Department of Community Services’ Housing office and run by a variety of regional housing authorities. These include the Metro Regional Housing Authority, the Cape Breton Island Housing Authority, the Eastern Mainland Housing Authority, the Cobequid Housing Authority, and the Western Regional Housing Authority.

Each housing authority has its own Board of Directors. The board of directors is made up of community members and tenant representatives. There needs to be one community member representing each public housing authority complex within the regional housing authority. The exact make up of the board changes from one housing authority to another.

The Department owns many apartment buildings, row houses, and seniors’ building for public housing. Public housing also provides rental subsidies in some cases for private apartment buildings operating under the Rent Supplement Program.

Tenants living in public housing pay a monthly rent based their on household income.

RTA regulations specifically for public housing:

Everything in the *Act* applies to public housing except for the following:

- You must give public housing information about your household income and family size. The unit you are given should be chosen based on these things.

- If your household income or family size change and you no longer qualify, your housing authority may be able to evict you by giving you notice (the same notice rules as other tenancies).
- You do not have the right to sublet or assign your lease. (Section 6(1)(4) of the *Act*).
- The general rules for rental increases do not apply to public housing. In public housing your rent is based on a percentage of your income, so if your income changes then your rent changes. For example if your income increases by 5% your rent will also increase by 5%. This means your rent can change regularly, but the percentage of rent you pay remains the same (See Chapter 14 of the Public Housing Policy Manual for more information).
- Your rent can change more than once a year.

Many of the same problems occur in public housing as in other rental housing. Public Housing Authorities have their own guidelines for dealing with disputes in the Public Housing Policy Manual. You can complain to the Housing Authority Board if your own property manager is treating you unfairly.

MANUFACTURED HOME PARKS

Manufactured home parks are also known as land-lease communities, mobile home parks, or trailer parks. Manufactured home parks are small communities in an area owned by a private landlord who rents lots (also known as a manufactured home space, mobile home space, or trailer space) where people put their manufactured home.

Lot Rent:

Lot rent includes the lot and sometimes utilities, such as electricity or water. Make sure to know what is included in the lot rent and what is not when you move in.

The landlord is responsible for providing certain services to the manufactured home park, including: traffic signs, and street lights.

More Information:

The *Act*'s general rules apply to manufactured home parks, but it also has specific rules for manufactured home parks.

RENTING A CONDO

The *Act* applies to renting condominium units (condo units). In fact, renting a condo unit is very similar to renting a traditional rental unit.

The differences are:

- The owner of the condo unit you are renting is your landlord.
- You have to follow the rules of the condominium. These are generally laid out in your lease as the landlord's rules.

LEGAL PROCEDURES & DISPUTE RESOLUTION

Dispute with Landlord:

If either you or your landlord cannot work through a problem, there are formal ways to address the issue. Either you or your landlord can start a dispute. If you want to begin a dispute you can file an application to Residential Tenancies. The application is formally called an ‘Application to the Director’ because it is officially addressed to the Director of Residential Tenancies.

You can begin this process online at <http://www.novascotia.ca/sns/pdf/ans-rtp-form-j-application-to-director.pdf>. (You can also google form j application to the director and that should work).

Once you have submitted the application and followed the proper steps you will have a hearing with your landlord mediated by a Residential Tenancies Officer.

Dispute with Roommate:

If you have a dispute with your roommate that you cannot work through you can apply to Small Claims Court to resolve the issue.

To begin a claim in Small Claims Court you can either go to the court to fill out the proper forms to begin the process, or **you can fill them out online** at: <https://www.interactivecourtforms.ns.ca/>.

NOTE: For more information on disputes with landlord’s and roommates, including preparing for hearings, appeals and what to do once you get your result please read our **specialized guide on Legal Procedures and Dispute Resolution**.

Taking your Landlord to the Tenancy Board:

Step 1. Plan:

Decide what you're asking for. Before you go to the Tenancy Board, it is important to decide what you are asking for – not just what the problem is.

You can ask the Residential Tenancies Officer to order your landlord do things like:

- Make repairs to your unit or to the building.
- Pay you for damage to your things if it was caused because the landlord did not make repairs you asked for.
- Pay you for out-of-pocket expenses for things you should not have had to pay for.
- Return all or part of your security deposit.
- Set aside a Notice to Quit.
- Set aside a rental increase.
- Let you move out and end the lease early.

Step 2. Complete the Form J Application to the Director Form:

You can get the Form J application from any Access Nova Scotia office or you can download one at: <http://www.novascotia.ca/sns/pdf/ans-rtp-form-j-application-to-director.pdf>

TIP: Explain what the problem is. Explain what you want done about it. Ask to have the landlord pay you back for the application fee of \$31.15.

Step 3. Hand in the Form that Deals with Fees:

To file the application with Residential Tenancies you have to take the form to any Access Nova Scotia office. There is a \$31.15 application fee.

If you receive income assistance then you can ask to have the fee waived. You will need to take your most recent pay statement with you to ask for the fee to be waived. If you have to pay the fee, keep your receipt, because if you win your case you can get your landlord to pay you back for the fee.

Step 4. Serve the Landlord with Notice of the Hearing:

The clerk at Access Nova Scotia will receive your application. The clerk will then give you two copies of your application form. One is for you to keep for your records. The other is for you to give to your landlord. There will be a date on the form that says how much time you have to serve your landlord. You must serve your landlord before this date or you will not have your hearing.

You can serve the landlord by one of two ways: Personal Service or Registered Mail.

- **Personal Service** means that you meet the landlord in person and hand them the copy of the form. You do not have to serve the owner of the building; if your landlord has a property manager, superintendent or other staff person who works for their rental property, then you can serve that person. If you are going to give your landlord personal service, it is a good idea to take a responsible friend with you. This friend can act as a witness if there is a problem. Once you have served the landlord, **take note of the date, time, and location** and try to get the name of the person you gave the form to.
- **Registered mail** is a service offered by Canada Post. If you serve the landlord by registered mail **you MUST keep the receipt** from the post office.

Step 5. File the Affidavit of Service to Access Nova Scotia:

Once you have served the landlord, you need to go back to Access Nova Scotia to file a legal document called an “Affidavit of Service.” An Affidavit of Service is a form that you sign in front of an Access Nova Scotia staff person in which you swear that you did actually serve the landlord. **You MUST submit the Affidavit of Service** or else Residential Tenancies will not let you go forward with your hearing.

If you had someone else serve the landlord for you, that person **MUST** go to Access Nova Scotia with you and they **MUST** sign the Affidavit of Service. If you did not serve the landlord yourself, then you cannot sign the Affidavit of Service.

If you served the landlord by registered mail, then you **MUST** take the full Canada Post receipt with you to Access Nova Scotia to file the Affidavit of Service.

What if I Can’t Find My Landlord to Serve Them?

If you cannot find your landlord to serve them, or the registered mail comes back because Canada Post couldn’t find them, you can still move forward with your case. You must contact the Residential Tenancies Officer assigned to your case. The Officer’s name and phone number is on the application form. Phone the Officer and let them know that you are having trouble serving the landlord. The Officer can let you notify the landlord in another way, and you can still go forward with the hearing.

The Landlord Takes you to the Tenancy Board:

If your landlord decides to take you to the Residential Tenancies to settle a dispute, they will have to serve you with a notice of the

hearing. They will either have to serve you personally or by registered mail.

You should NOT try to avoid being served with a notice of a hearing. If you try to avoid being served (e.g. don't answer the door, don't get your mail, etc.) the landlord can ask the Tenancies Officer for permission to give you notice in another way (e.g. e-mail, letter, serving your relatives or friends, etc.). If you still avoid being served, the hearing can go on without you.

If you don't go to the hearing, the Residential Tenancies Officer can make a decision without you. It is more likely that you will lose if you do not go.

The Hearing:

Step 1. Prepare for the Hearing:

Gather all evidence:

- Include pictures, papers, receipts, letters, and any other paperwork that you think will help to prove your point. Write down the dates and times of conversations with your landlord. Every piece of information you have may help you at your hearing.

Make 3 copies:

- You are supposed to take three copies of all the paperwork with you to the hearing. One copy is for you, one is for your landlord, and one is for the Residential Tenancy Officer. If you cannot afford to make three copies of everything, phone the Tenancy Officer BEFORE the hearing to tell them.

Bring Witnesses:

- If there are any witnesses that would help your case, ask them to attend the hearing with you. Witnesses can include people who saw something happen, or people who would say that you are a good neighbour. For example, if your landlord is accusing you of disturbing your neighbours, it might be help-

ful for you to bring a neighbour who can say that you behave properly. You can ask anyone who would support your case to be a witness.

IMPORTANT: witnesses cannot stay in the room where the hearing is taking place. They have to wait in the waiting area until they are called to come in to testify. Once they have given their testimony, witnesses will be asked to leave the hearing room and wait in the waiting area again.

Interpreter:

- If you aren't fluent in English you can bring an interpreter. You should let the Residential Tenancies Officer know ahead of time that you will be bringing an interpreter. In some cases Residential Tenancies may be able to pay for the cost of hiring an interpreter.

What to wear:

- You do not have to wear a suit. You can dress casually.

Enforcement:

Contact your landlord and ask that your landlord follow the Director's Order. If your landlord does not follow the order, you must request that the Order of the Director be made into an Order of the Small Claims Court in order to enforce it. Write or email the Residential Tenancy Officer who conducted your hearing to ask for this. **It is free.** The Small Claims Court will then mail you forms to fill out. Once you have filled them out, mail the forms back to them, or drop them off in person. You will have to decide what enforcement actions are necessary.

You can request:

Execution Order:

- Allows the sheriff to take money from your landlord's wages, bank account, or other finances. The sheriff can also seize some of your landlord's belongings and sell them.

Certificate of Judgment:

- Creates what is called a 'lien on the property' of the landlord. The property cannot normally be sold or mortgaged until the judgment is paid.

Recovery Order:

- Allows the sheriff to get any property of yours that the landlord may be holding.

The Sheriff:

- Once you receive one of these forms you must file it at the Personal Property Registry and then take the forms to the sheriff. You will have to pay fees for both of these services and those fees will be added on to what your landlord owes you. You may be able to get a waiver for the fee with the sheriff. Call the Court Administration Services at (902) 424-6900 about waiver of fees.

Small Claims Court Appeal:

You have 10 days to appeal the decision to the Small Claims Court. You must complete a 'Notice of Appeal' form and explain why you are appealing the decision. **You can appeal the decision for any reason.** You must also serve the appeal notice to your landlord and to Residential Tenancies

NOTE: It is a good idea to get legal help to appeal to the Supreme Court of Nova Scotia. You can contact No-

va Scotia Legal Aid, Dalhousie Legal Aid Service, or one of the other legal resources found at the back of this Guide for assistance.

How to Start or Defend a Claim in Small Claims Court:

NOTE: If you have a dispute with your roommate it must be resolved through Small Claims Court, not Residential Tenancies.

The notice of claim form must be filed with the court, and then personally served to the defendant within 10 business days of the claim being filed with the court. **This is different from a Notice to Appeal a decision from the Residential Tenancies Board.**

A claim in small claims court requires plaintiffs to personally serve defendants. This means that the plaintiff, or a third party, must physically hand the notice of claim form AND the form of defence to the defendant (Form 1, and Form 2 of the Regulations).

The defendant can then file a notice to defend with the court, and serve a notice to defend through registered mail to the claimant within 20 business days of being served.

It is possible to serve a defendant through other means besides personal service (e.g. mail, electronically), but this must be directed by the court.

If a defendant doesn't file a notice of defence and a plaintiff has properly served the defendant. The plaintiff can file for quick judgement in advance of the hearing. The plaintiff must fill out the affidavit of service form and file it with the court to demonstrate that the defendant was properly served.

The plaintiff will still have to demonstrate the merits of their case if they apply for quick judgement, but the adjudicator can rule in the defendant's absence.

TERMS / GLOSSARY

Adjourn: To postpone a hearing to a later date or time.

Affidavit of Service: A sworn statement that you have served the other party with the notice of a claim.

Anniversary Date: The date that you entered into the lease agreement. It stays the same for each year after that, regardless if you have a weekly, monthly or yearly lease.

Application to the Director: Also known as a **Form J**. It is the form that you fill out to file a claim with Residential Tenancies.

Arrears: Rent or other money that is overdue.

Assignment: An assignment is a permanent change to a tenancy. An assignee should sign or enter into a new lease with your landlord, and take over the unit once you leave. You (the original tenant) has no further obligations to the landlord.

Deemed: To treat something as if it is true, or it happened.

Director: The head of Residential Tenancies. The boss of the Residential Tenancies Officers.

Fixed –term Lease: A fixed-term lease is a leasing agreement with a specified beginning and end date. For example, January 1, 2018 — December 31, 2018.

Joint and Several Liability: A legal term that means either multiple people or one of those people can be held legally responsible for something. For example, roommates are all responsible for the lease, but at the same time any one roommate could be singled out and held responsible for the whole lease. Roommates are jointly and severally liable.

Just Cause: The legal term for a good reason. It applies in particular to evictions. If your landlord wants to evict you they must have a good reason (just cause) to evict you.

Mediation and Hearing: The meeting you have over the phone with a Residential Tenancies Officer and the landlord to decide a claim.

Notice to Quit: A formal notice to end a tenancy.

Order: A legal document issued by a court or an adjudicator such as a Residential Tenancies Officer. Orders are binding and enforceable.

Re-assignment: See assignment.

Security of Tenure: The notion that tenants, with the exception of tenants with fixed-term leases, cannot be evicted unless the landlord provides a reason that is legally justified.

Sublet: A sublet is a type of rental agreement between a tenant and a sub-tenant. This means that the tenant of a rental unit finds someone else to rent their unit from them for a period of time. In a sublet the original tenant intends to return to the rental unit after a period of time. During the sublet the original tenant becomes a sub-landlord and the new tenant becomes a sub-tenant.

Security Deposit: Also known as a damage deposit or a safety deposit. It is money paid to the landlord by the tenant in addition to rent as a type of collateral in case there are damages to the rental unit. It cannot be more than half of the first month's rent.

Statutory Conditions: They make up section 9 of the *Act*. They are a set of rules that apply to all tenants and landlords.

Vacant Possession: Another word for eviction, or removal of a tenant from a rental unit.

Wear and Tear: The usual degree of deterioration caused by normal living in a residential premise.

RESOURCES

Dalhousie Legal Aid Service — Specialized Guides:

- Finding a Place & Being a Good Tenant Guide
- Legal Procedures & Dispute Resolution Guide
- Public Housing Guide
- Manufactured Home Parks Guide
- Enforcement Guide

Residential Tenancies — Access Nova Scotia:

- Resource that you can use to begin a claim with Residential Tenancies. It also has relevant information for tenants, like the *Act* and a tenant's guide.
- Telephone: (902) 424-5200 or 1-800-670-4357 (toll free in North America)
- Online: <https://www.gov.ns.ca/snsmr/access/land/residential-tenancies.asp>
- Halifax: 300 Horseshoe Lake Drive, Bayers Lake Business Park
- Dartmouth: 250 Baker Drive, Suite 134

Halifax Regional Municipality (HRM) — Building Inspector:

- A relevant resource if your rental unit or building is not being properly taken care of. They can give your landlord an order to do repairs, and if they don't HRM will do them and charge the landlord.
- Telephone: 311 in HRM

Legal Information Society of Nova Scotia:

- Resource for general legal information. They also have a lawyer referral service.
- Telephone: (902) 455-3135 or 1-800-665-9779 (toll free in Nova Scotia)
- Email: questions@legalinfo.org
- Web: <https://www.legalinfo.org>

Nova Scotia Human Rights Commission — Halifax:

- Resource to deal with issues of discrimination.
- Telephone: (902) 424-4111 or 1-877-269-7699 (toll free in Nova Scotia)
- Email: hrcinquiries@gov.ns.ca

Nova Scotia Legal Aid:

- Representation and summary advice for people with low income. There are 19 locations throughout the province.
- Main Office (Halifax): (902) 420-3450 or 1-866-420-3450 (toll free)
- Web: <http://www.nslegalaid.ca/>

