

Q&A with Residential Tenancy Branch - May 13, 2020

Questions answered by:

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RTB has previously published a general Q&A for landlords:

https://www.gov.mb.ca/cca/rtb/covid19/ll_qa.pdf

On Evictions and Orders

Q: We had received a couple of Orders that must be enforced before the end of June. If we are unable to proceed with evictions by this date will the date be extended?

As long as you have an Order of Possession granted from the RTB office already, you can still take the Order to the court to obtain your Writ of Possession prior to the enforcement date. It will up to the Sheriff if they are going to enforce it now or if they are going to wait.

I don't know if a Writ of Possession has an expiry date once you've obtained it - this information you will have to obtain from the Sheriff's office.

So, for RTB, as long as you've gone to the court with the Order prior to the enforcement date and obtained your Writ, that Order should be able to be enforced, either now or a later date, depending on the Sheriff.

Q: Premier Pallister stated that there would be exceptions to eviction postponement in matters where tenants' safety is put at risk, is there a special RTB contact for these matters?

No, any landlord who wishes to apply for an Order of Possession for those reasons can call RTB general information line (204-945-2476). Make an appointment to come in and bring their paperwork to get their package ready for the hearing date.

Q: A tenant does not keep their place in the order specified in the lease. Additionally, they are a hoarder who has had warnings from the Winnipeg Fire Department (2 inspections), they had previously reached a mediated settlement but the former landlord never followed up with the eviction. They have refused all spraying for bugs and are never prepared. Can we still evict if we have all of the documentation even though the restrictions because of Covid-19 are in place?

If the mediated settlement from previous landlord has expired, the landlord can't do anything to request an Order based on the previous agreement. But they could proceed with an Order with the current behaviours if they are a safety risk.

If landlords want to be successful to terminate tenancy right now, they will need to show the actions are **causing immediate risks of health and safety for other tenants**, by obtaining evidence from the fire department, for example.

Even if it's not an immediate risk, the landlord can still start with warning letters. They just wouldn't be able to issue a termination notice until the suspension is lifted.



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Q: Are there any generalized examples of types of exceptions that would proceed on the eviction front?

Exceptions include activities that would cause an immediate risk to the health and safety of the landlord or other tenants. It could be anything from taking down a smoke detector, to assault, and threats. And unlawful activities such as drug dealing.

It could be tricky in cases where a tenant is intentionally disregarding COVID-19 requirement. If you could prove that it's **an immediate risk** to the health and safety of other people, you could proceed. But if the person does not have the virus, not following physical distancing is not necessarily causing an immediate risk. In order to be successful with hearings, you need some evidence from the Health Department to be presented at the hearing. The first step is to contact Public Health Enforcement officers, who have been issuing warnings and fines.

In Winnipeg, reports of non-compliance can be made by calling: 311 or by email at 311@winnipeg.ca, or Twitter: [@cityofwinnipeg](https://twitter.com/cityofwinnipeg) and outside of Winnipeg, reports of non-compliance can be made to the Manitoba Government Inquiry (MGI) inquiry line at 204-945-3744 or by email at mgi@gov.mb.ca.

Q: Do you have any updated information on when the eviction hearing freeze may end? Do you expect the May 31 date, or a later date?

There are two issues raised in the question. The first issue is with the suspension of *termination notices*. This suspension of the notices themselves was done through the Amendment of the Residential Tenancy Act. The Amendment is the 9.2 section of Bill 58 (<https://web2.gov.mb.ca/bills/42-2/pdf/b058.pdf>), which includes information on 1) Rent Freeze, 2) No termination of notices unless unlawful activities or impairment of safety, and 3) no late fees.

Until this amendment is repealed, landlords cannot terminate tenancy for reasons other than unlawful activities or impairment of safety, from March 24 forward.

The second issue is with the suspension of *hearings*. This suspension was done through an Emergency Measures Act Order, which ends on June 30. So, if there was a termination notice given **prior** to March 24 for any reason, you can proceed with the Order as of July 1st. If it's a notice other than unlawful activities or impairment of safety, that has been given **after** March 24, you cannot proceed on that.

There is no date for when the amendment will be repealed. But the suspension for hearings will be lifted on July 1st.

Will there be changes to the process when the hearing freeze ends? Do you expect a significant backlog of cases?

RTB had lots of Orders of Possession for non-payment of rent prior to this freeze, and RTB has to postpone those because they are not considered urgent. Our intention is to use the first month to go through only Orders of Possession hearings. We have 6 hearing officers and 13 client services officers, and 2 mediation officers. We expect 1 month or 1.5 months to go through the backlog, then it would be business as usual.



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We have capacity to hold hearings for Orders of Possession, as well as mediated agreements. There are also other staff who could be pulled to deal with the case load. We expect a lot of cases in the beginning of July, and we will determine staffing according to the volume.

Q: When COVID-19 is over, what will RTB consider as a reasonable time frame for tenants who had to make a re-payment agreement with their landlord to re-pay before eviction would be considered?

We don't think there is a reasonable time frame. Tenants were still expected to pay their rent. The Non-Eviction Amendment is to give tenants opportunities to get their finances in order and to make arrangements with their landlord. Once the termination suspension is repealed, there is nothing stopping the landlord from coming to RTB to issue a termination – even the very next day. It's entirely up to the landlord to determine what feels reasonable or not, based on the fact that tenants should have been paying their rent all along.

Q: If we have a previous mediated agreement, and it was breached prior to March 24, but we haven't filed because everything closed, can we send that in ahead of time?

There is nothing stopping you from sending it in, but please understand that we can't issue an Order until the suspension of the hearings is lifted in July.

Q: Suppose you have tenant who has not paid rent on April, May, June. You can only send in a termination when the amendment is repealed for July 1st, but you wouldn't have a hearing until August (as RTB is dealing with backlog in July). That's someone not paying rent for 5 months until you can do something with them.

You can't issue a termination until the amendment is repealed. We understand it's a long time for non-profits, but the amendment is a decision made by the government, so there's nothing we can do about that. Again this is not supposed to be rent holiday for tenants. The intention of this change is never for tenants to not pay their rent.

Q: When the hearings start in July, given social distancing, are there any changes or new practices that tenants should be aware of when they come to a hearing?

It depends on where we are at with respect to the pandemic and social distancing. We are currently doing many hearings now by teleconferencing. There will be a limit of the amount of people in the hearing room at one time, but we should be able to maintain social distancing by increasing our dockets from twice a day (9am and 1:30pm) to hourly.

Q: We understand that RTB has good communication the PPMA. Non-Profit landlords are in a different position because of the nature of our business. We hope to keep this communication open and can share information from MNPHA members on issues and cases we see or anticipate in July and going forward.

RTB would appreciate any information that help us plan reopening of hearings or staffing. At the end of May, MNPHA could plan a survey and send the results to RTB.



On Rent Increases

Q: With COVID-19 how long will we not be able to increase rent?

Not until the amendment is repealed.

Q: With the added expenses due to everything going on, what will be the percentage of increase for this coming year?

[The 2020 rent increase guideline](#) was set as 2.4 percent at the beginning of the year, before COVID-19. You can find the formula on [RTB website](#) calculated based on the changes of Consumer Price Index. Once the amendment is repealed, folks would be able to increase rent by the amount that has been announced.

We recommend that, even though there is a rent freeze, landlords should still give notice of rent increases based on the anniversary date. If landlords were supposed to have an increase by May, they should provide a notice 3 months prior, to protect their anniversary date. Once the freeze is repealed, provided by the proper notice, landlords can start collecting the increase going forward. You can't collect the increase now, or retroactively, but tenants are required to pay the increase once the amendment is repealed.

Q: What about rent increases for RGI units?

The subsidized rent is set by Manitoba Housing, and RTB/the Residential Tenancies Act has no role in setting those rates. MB Housing followed RTB and the spirit of the announcement by government, so they will likely make a decision when the amendment is repealed.

Q: What about rent increases through a discount?

The removal of a landlord discount is not considered a rent increase as far as the legislation is concerned. But a discount can't be removed during a fixed term and if there's no conditions. So if a term is up, landlords can remove a discount and that is not considered as a rent increase.

Q: Can I increase the laundry prices during the freeze?

With respect to the laundry, if this is a "free" service that is included in the rent the landlord can not start to charge. If this is coin operated laundry provided by the landlord, then it is not considered a rent increase and the landlord can apply to increase the laundry charge.

Definition of "rent charged for rental unit"

[123\(1\)](#) In this section and section 126.1, "rent charged for a rental unit" does not include the amount of any separate charge for laundry facilities provided by the landlord, for which a separate application must be made under section 127.