

# 2016 Alberta Fires

## Quick tips: Frequently Asked Questions

### **The unit I rent was damaged in the fire. Can I break my rental agreement?**

It depends on the condition of the unit. If you cannot return to the unit because it is destroyed or damaged beyond repair, a rental agreement could be "frustrated". This means it is not possible to continue living in the unit. Inform your landlord in writing that you are treating the rental agreement as frustrated. If you and your landlord agree that the tenancy is frustrated you may not have to continue paying rent. It is advisable a tenant get written confirmation of this from the landlord. The landlord would also be required to return the security deposit. The tenant should also ensure they provide a forwarding address to the landlord. Document the condition of the property with photos and video in case your landlord disagrees the tenancy is frustrated.

### **What if my landlord disagrees and refuses to end the rental agreement?**

If the landlord disagrees that the agreement is frustrated and you have stopped paying rent, the landlord can make an application for damages to provincial court or the Residential Tenancy Dispute Resolution Service (RTDRS) and/or keep some or all of the security deposit. The tenant may make a counter-application if they believe they are owed monies or make their own application if they believe the landlord should not keep their security deposit. Both the tenant and landlord should be prepared to provide proof of the condition of the unit. The tenant or the landlord can also contact Alberta Health Services to have an Environmental Health Officer inspect the unit and determine whether it is in livable condition.

### **Who is responsible for cleaning and repairing fire damage?**

The landlord is responsible for ensuring the unit is in a habitable condition. In most cases, the landlord, or the landlord's insurance company, will pay for repairs to the unit.

### **How long does a landlord have to repair a damaged rental unit?**

There is no set period for a landlord to repair a rental unit, unless an Environmental Health Officer has inspected the property and issued an order to the landlord. However, landlords should attempt to repair the unit within a reasonable time.

If tenants believe it is taking too long to repair the unit they can contact Alberta Health Services. They can also make an application to provincial court or the RTDRS to terminate the rental agreement or obtain a rent reduction.

### **My belongings were damaged in the fire. Who is responsible for cleaning, fixing or replacing them?**

Tenants are usually responsible for their belongings. If you have tenant's insurance, read your policy closely to see what kind of damage is covered and call your insurer with any questions.

### **I wasn't able to live in the rental unit for several days because of the evacuation order. The landlord had to make some repairs before I could move back in. Do I still pay rent for the time I wasn't living in it?**

You should talk to your landlord about what is expected for rental payments. It is advisable to get any agreement with the landlord in writing. If you and your landlord are not able to come to an agreement about the rent, you can apply to provincial court or the RTDRS for a temporary reduction in your rent. Landlords should be checking with their insurance company to determine if their rental income loss is covered under their insurance policy.

### **Who is responsible for covering the cost of alternate accommodations?**

Tenants are responsible for the cost of alternate accommodations unless otherwise stated in the rental agreement.

### **My landlord changed the locks during the evacuation. Is that legal?**

The landlord might have changed the locks to protect the property from looting and was not able to contact you at the time. The landlord must give you the new key or they can be charged under the *Residential Tenancies Act*.

### **I can't get in touch with my landlord. What should I do?**

Under the *Residential Tenancies Act*, the landlord must provide the tenant with their mailing and street address after the tenant

Service Alberta

Consumer Contact Centre

Edmonton: 780-427-4088

Toll free in Alberta: 1-877-427-4088

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moves in, or post it conspicuously in a common area of the building. If the tenant does not have this address, they should communicate in writing to the address on the lease.

### **Can landlords use my security deposit to pay for repairs due to fire damage?**

No. Security deposits are to cover items within the tenant's responsibility, such as cleaning costs, unpaid rent, or fixing damage beyond normal wear and tear.

### **As a landlord, do I need to consult with an Environmental Health Officer before I let tenants return?**

You are not required to consult with an Environmental Health Officer. However, an inspection is recommended if there is a health or safety concern.

### **The rental agreement was terminated but the tenants left many of their belongings. What can I do with everything?**

Abandoned goods valued at \$2,000 or more must be placed in storage for at least 30 days, unless it would be unsafe or unsanitary to store the items. If the goods are valued at less than \$2,000, landlords can dispose of them as they see fit; however, in the case of a disaster where tenants had to leave on short notice, landlords may wish to show consideration about disposing items that may have personal value such as photo albums. Landlords are required to keep records for 3 years. For goods valued at more than \$2,000, landlords should check the *Residential Tenancies Act* for more complete information.

### **What if my landlord will not allow me back into the rental premises?**

Although tenants will be anxious to return to their homes, landlords may be hesitant to allow tenants re-entry into their units if there is uncertainty whether the premises are habitable. The *Residential Tenancies Act* requires a landlord to ensure the premises meet the Minimum Housing and Health Standards required under the Public Health Act and Housing regulation, administered through Alberta Health Services (<http://www.health.alberta.ca/documents/Standards-Housing-Minimum.pdf>). Landlords who have several rental properties in Fort McMurray may require some time to assess each unit for safety, security and habitability before allowing tenants to return home.

If the landlord is not allowing the tenant re-entry to their unit and cannot produce a public health order, Residential Tenancy Dispute Resolution Service order, or Court order, giving authority to restrict access, the tenant may be able to file a complaint with Service Alberta. Further information on filing a complaint may be obtained from the Service Alberta Consumer Contact Centre toll-free at 1-877-427-4088 or online at <http://servicealberta.gov.ab.ca/File-a-consumer-complaint.cfm>

It is extremely important in these circumstances for landlords and tenants to be reasonable, ensure they keep in contact and for the landlord to clearly communicate reasons for any delay in the tenant returning home. Tenants should check with their landlord on the availability of their rental premises prior to returning home.

### **Can my landlord enter the rental premises when I am not there?**

The *Residential Tenancies Act* (RTA) allows landlords to enter the premises without notice or consent if they have reasonable grounds to believe there is an emergency or the tenant has abandoned the residential premises. Otherwise, landlords should provide tenants with 24 hours written notice to enter a property to inspect for the state of repair or make repairs to the premises. The notice should be hand delivered or sent by registered mail. The RTA also allows a landlord to post a notice of entry in a conspicuous area on the rental premises if the tenant is not home. Alternatively tenants can provide consent for the landlord to enter the premises without notice. The RTA does not require a tenant to be present when the landlord enters. Tenants who have evidence the landlord may have entered their residential premises improperly can file a complaint with Service Alberta. Further information on filing a complaint may be obtained from the Service Alberta Consumer Contact Centre toll-free at 1-877-427-4088 or online at <http://servicealberta.gov.ab.ca/File-a-consumer-complaint.cfm>

### **My lease expired on May 31, 2016. Now what happens?**

The *Residential Tenancies Act* defines a fixed term tenancy as a tenancy that ends on a specific date, and a tenant is expected to vacate the property at the end of the fixed term, unless the landlord and tenant agree to continue the tenancy. Tenants who had a fixed term tenancy that expired May 31, 2016 should discuss options with their landlord to remove their personal property once re-entry is allowed or the possibility of continuing the tenancy on a fixed term or periodic basis. Tenants who do not vacate the property at the end of their fixed term tenancy and have not made arrangements with the landlord to remain in the property may be deemed overholding tenants by the landlord, and the landlord may pursue remedies through the Residential Tenancy Dispute Resolution Service (RTDRS) or Court.

### **Can my landlord evict me if I haven't paid my rent?**

A landlord may evict a tenant if they feel they have reasonable grounds. Tenants must be served at least 14 days' written notice (16 calendar days) stating the reason(s) for the eviction, the date the tenancy is to end, and be signed by the landlord or their agent. If the eviction is for non-payment of rent, the tenancy will not be terminated if the tenant pays all the rent owing and any additional rent due as of the termination date. The tenant has the right to dispute the reason(s) in the eviction notice, unless it is for non-payment of rent. If the tenant objects to the reason(s) in writing to the landlord before the termination date, the landlord may go to the Residential Tenancy Dispute Resolution Service (RTDRS) or Court for an order terminating the tenancy and to get possession of the premises. Both parties can present their arguments to the RTDRS or Court. At any time, a landlord and tenant can mutually agree to end the tenancy by a certain date and save the expense of taking the matter to RTDRS or Court. The

*Residential Tenancies Act* provides other reasons for termination of the tenancy and corresponding timeframes for notice. Further information can be obtained online at: <http://servicealberta.gov.ab.ca/Landlords-and-tenants-tipsheets.cfm>

### **Can my landlord raise the rent?**

When a landlord is entering into a tenancy agreement with a new tenant, the landlord and tenant negotiate the rental amount. Landlords cannot increase the rent until a minimum of one year (365 days) has passed since the last rent increase or since the start of the tenancy. If the 365th day occurs during the term of a fixed term tenancy the landlord cannot increase the rent until the tenancy agreement expires. No rent increases are permitted if a tenant is served with a notice to terminate due to condominium conversion or major renovations.

A written notice is required to increase the rent under a periodic tenancy. The rental increase notice must include the issue date, the effective date of the increase and the landlord's signature. The amount of notice required to increase the rent depends on the type of periodic tenancy:

- 12 full weeks for a week-to-week periodic tenancy.
- 3 full months for a month-to-month or any other periodic tenancy.

There are no rent controls in Alberta.

On June 2, 2016, under the authority of the Emergency Management Act, the Regional Emergency Operations Centre declared that all hotels, lease properties, work camps and rental accommodation operators must maintain the prices that were in effect on April 30, 2016. Any landlords or property owners that are charging prices above April 30 prices will be investigated and enforcement action will be taken. This freeze will remain in effect until the Provincial State of Emergency declared on May 4, 2016 is lifted.

### **The landlord removed my refrigerator. Can they do this?**

Although the RTA does not specifically address refrigerators it does provide for notice of entry provisions for the landlord and the requirement for the landlord to maintain minimum standards prescribed for housing premises under the Public Health Act. If the landlord does not replace the refrigerator, tenants may contact an Environmental Health Officer.

### **How can disputes be settled?**

Landlords and tenants who have concerns related to a termination of tenancy, unpaid rent/utilities, security deposit, damages, repairs or other common disagreements may apply to the Residential Tenancy Dispute Resolution Service or Court for a remedy. Disputes are heard by a Tenancy Dispute Officer who is authorized to make binding decisions on claims of up to \$50,000 involving tenancy disputes. To obtain more information, go to the Service Alberta website at <http://www.servicealberta.ca/landlord-tenant-disputes.cfm>

### **How can I file my application with RTDRS?**

If the rental property is in Fort McMurray (Northern Alberta), the application may be sent to the RTDRS by fax. For more information on the RTDRS processes and procedures, please visit our website at [www.rtdrs.alberta.ca](http://www.rtdrs.alberta.ca).

### **What can I do if I cannot locate my landlord/tenant to serve them with the notice of hearing for RTDRS?**

Either a landlord or tenant may file an application with the RTDRS as long as they have the full name of the other party. Once the application has been filed the applicant must serve a copy of the application to the other party. The applicant may serve the respondent in person at any location. They can also attempt service by registered mail to the tenant's last known address in hopes that the mail is being forwarded to another address. If the applicant has not been successful in serving the application they can apply to the RTDRS to serve the documents another way (substitutional service). The applicant must complete a *Substitutional Service Affidavit* form in which they list their attempts at service, request approval to serve another way and explain why they believe it will work. A Tenancy Dispute Officer will review the affidavit and make a decision on the request.

The *Substitutional Service Affidavit* form is available on the RTDRS website or at the RTDRS offices in Edmonton and Calgary. Take the completed *Substitutional Service Affidavit* to a Commissioner for Oaths. The RTDRS has Commissioners available in our offices if the applicants are in Edmonton or Calgary. If the applicant filed their application by fax, they must have the affidavit commissioned by a Commissioner for Oaths and faxed to the RTDRS.

For more information on the RTDRS processes and procedures, please visit our website at [www.rtdrs.alberta.ca](http://www.rtdrs.alberta.ca)

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