



Order of Possession

Generally, an order of possession gives the landlord the right to repossess the rental unit and requires the tenant to move out. When applying for an order of possession, the landlord must provide a copy of the notice to end the tenancy to the tenant and be able to prove that it was served correctly.

A landlord can only apply for an order of possession after the tenant's deadline to dispute the notice has passed. However, in some circumstances the landlord may require the tenant to vacate the premises earlier than the 14-day "eviction" notice, due to safety or damage concerns.

Landlord Retaliation – Refusing Order of Possession

In the following circumstances, the Residential Tenancies Office (RTO) may refuse to grant an order of possession:

- when the landlord's notice to end the tenancy was a result of the tenant making a complaint to a government authority in relation to a violation of health, safety or housing standards; or
- the landlord's notice was a result of the tenant's attempt to enforce their legal rights.

When the Tenant Does Not Move Out

A landlord cannot physically remove a tenant without an order for possession, even when the tenancy has ended. A landlord also cannot lock the tenant out, take the tenant's property or discontinue essential services (such as electricity or heat).

To have a tenant removed, the landlord must first get an order of possession from the RTO. The landlord must then serve the order of possession on the tenant. If the tenant does not leave by the date noted on the order, the landlord must file the order of possession with the Supreme Court and enforce the order.

The overholding tenant may also have to pay the related costs or compensate the landlord. This could include fees and expenses of the incoming tenant such as other accommodation, meals, additional moving costs or truck-rental fees.

Abandonment

Abandonment is when the tenant gives up the tenancy and possession of the rental unit without proper notice to the landlord.

NOTE: If the rent has been paid and is current, it is not likely that abandonment will be found.

A tenant who is going to be away for an extended time should let the landlord know and make arrangements to have the rent paid. Also, a tenant should ensure that they make arrangements to have the rental property looked after while they are gone. A tenant would likely be responsible for damage caused if the pipes froze while they were away on holiday over the winter.

Where the rent has not been paid, the landlord could determine abandonment if:

- the tenant removes his/her possessions from the building; or
- the tenant advised the neighbours or other parties that they do not intend to return.

When a tenant abandons the unit and owes rent, the landlord can submit an application for dispute resolution asking for the rent and other costs such as cleaning or cost of removal of personal items.

Once an application has been made, the RTO may authorize the landlord to remove the property from the rental unit and sell or dispose of it. This only happens if the RTO is satisfied that the landlord has made reasonable efforts to locate the tenant, or if the tenant has been located, but they have not made reasonable arrangements to remove their possessions.

If a landlord receives an order to remove, sell or dispose of the property, any money earned can be deducted from any amount owed to the landlord under the *RLTA* or regulations. Any costs paid by the landlord can be added to the amount owed.

The landlord must, however, pay any money that remains after any deductions to the RTO which holds it in trust for the tenant who left the property. The tenant has six months to claim this money, after which it is forfeited.

For More Information:

STREET ADDRESS:
1st floor
307 Black Street
Whitehorse, YT

MAILING ADDRESS:
Government of Yukon
P.O. Box 2703 C-7
Whitehorse, YT Y1A 2C6

TEL: (867) 667-5944 | **TOLL FREE:** 1-800-661-0408, Ext. 5944
FAX: (867) 393-6317
EMAIL: rto@gov.yk.ca
rto.gov.yk.ca