
Compensation for Loss After Termination of Tenancy

The Residential Tenancies Act:

- states that the Director may terminate the tenancy on a date specified in an order and that the tenant must vacate the premises on that date;
- authorizes the Director to order compensation to be paid for any loss that has been suffered or will be suffered as a direct result of the breach.

Reference:

Residential Tenancies Act: Sections 17A, 9(1); Statutory Condition 6

Details:

If a landlord seeks termination of tenancy because of a breach by a tenant of their obligations, the Residential Tenancy Officer will consider the evidence and may order termination of tenancy. The Officer may also order compensation for any losses to the landlord arising from the breach. Compensation can only be ordered for losses incurred up to and including the date of the hearing.

If further losses occur following termination of tenancy (for example more damages are discovered; the premises remained unrented), the landlord may seek compensation for such losses by filing another Application to the Director. A Residential Tenancy Officer will only award such compensation if the loss directly arises out of the breach by the tenant.

Example: a tenant in a year to year lease, with an anniversary date of July 1st, may breach the lease by not paying rent for January and February. The landlord may obtain an Order for payment of the unpaid rent and termination of the tenancy as of March 15th, and rent the unit for June 1st. The landlord can apply for the rent he did not receive from March 15th to May 31st because this loss arises as a direct result of a breach of the tenant.

Important: the landlord must make every effort to re-rent the property and cannot receive rent from two sources at one time. Landlords who do not make reasonable attempts to mitigate their loss are not entitled to compensation.

Procedure:

Any disputes will be handled by the same procedures as any other landlord/tenant dispute.

- either party can make an Application to the Director asking for a resolution of the disagreement;
- the applicant must serve the respondent with a copy of the application;
- the Officer will first attempt to reach an agreement between the two parties (mediate) and failing that, hold a hearing, determine the facts and then issue an Order.