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OCTOBER 9, 2019 BY **ALBERTA EVICTION INFO**

Overholding Tenant – What Is An Overholding Tenant?

An overholding tenant is a tenant who continues to stay in the property after a lease has ended.

This shouldn't be confused with a situation where the lease automatically defaults to a month to month lease or if improper or no notice is given that the lease is being terminated.

In the case of a lease automatically defaulting to a month to month this will occur if it's stated directly in the lease, or no effort has been made to notify the tenant about the lease ending.

Many Alberta residential leases by default specify that if the lease is not renewed it will automatically turn into a month to month lease. We recommend that Alberta landlords remove this section of their lease and simply stick with the fixed term option.

Having said this, it still doesn't result in an overholding tenant situation if the landlord has not started a discussion about renewing.

By not starting a renewal discussion or indicating that the lease must be renewed a landlord could find themselves in a situation where the lease still defaults to a month to month lease under the Alberta Residential Tenancy Act rules.

Start Lease Renewals Well In Advance

To avoid a situation where a fixed term lease turns into a month to month lease you must start the lease renewal process well in advance and clearly state that if the lease is not renewed prior to the end date, the tenants will be overholding tenants and will have to vacate.

As a landlord, month to month leases take a considerable amount of control and options away from them when a tenancy goes bad or out of control. Fixed term leases in Alberta simply give landlords more control of their property.

For a tenant, the opposite can be said as under the Alberta Residential Tenancy Act landlords month to month leases end up being more favourable for tenants.

Can A Month to Month Tenant Be An Overholding Tenant?

In a situation where a month to month tenant has been given a court ordered eviction date, any time after that eviction date the tenant would be considered overholding.

Or if proper notice to terminate a month to month lease has been provided and the tenant stays beyond that notice date, then they could be deemed overholding tenants.

In the first case since an eviction is already in place it usually just involves having the bailiffs appear to enforce the eviction and finalize the tenancy ending.

In the second case, once the notice date has been passed the landlord can then begin an eviction for overholding.

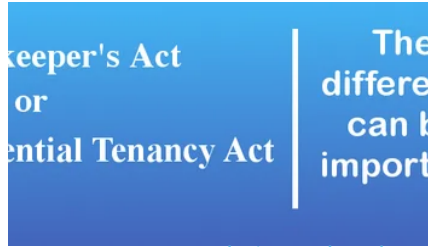
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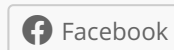
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RESIDENTIAL TENANCIES ACT

Alberta Tenancy Act or Alberta Residential Tenancy Act

The Alberta Tenancy Act, or the Alberta Residential Tenancies Act as it's more commonly known contains the ground rules for landlords and tenants in Alberta. This landlord and tenant act for Alberta provides all the definitions as far as what properties are covered, how both landlords and tenants are protected under the Alberta Tenancies Act [...]

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