

EVICTED

Self-Defence

HANDBOOK



How to fight unfair eviction

**What every BC tenant needs to know
about rights, responsibilities, recourse
& resources. Includes Workbook.**

This
Eviction Self-Defence
Handbook
belongs to

Name: _____

Contact info: _____

Produced by:

PIVOT
equality lifts everyone

pivotlegal.org

 **DTES SRO**
Collaborative Society

dtescollaborative.org

Design & Layout:
Murray Bush - flux design



****Updated for 2019 by the Vancouver Tenants Union****

Introduction

As a tenant in British Columbia, you have rights under residential tenancy law, and your landlord has responsibilities.

The Eviction Self-Defence Handbook is designed to give you a basic understanding of those rights and responsibilities during the eviction process so that you can prepare to dispute your eviction, if necessary. It is important to remember that even though there are laws in place to protect you, landlords do not always follow the rules.

This handbook is not legal advice. If you are unsure about your legal rights, or if you need help disputing an eviction, you should contact a legal advocate. Resources for finding advocates are listed on Page 9.

This resource book was produced by the Downtown Eastside SRO Collaborative Society (SRO-C) in partnership with Pivot Legal Society.

SRO-C works to prevent renovictions and improve habitability in Single Room Occupancy (SRO) hotels. It brings tenants together to file complaints for safety and management conditions at the BC Residential Tenancy Branch and to support Vancouver City Inspectors' efforts, where possible, to bring buildings up to code.

Pivot is a leading human rights organization based out of Vancouver's Downtown Eastside that works on behalf of marginalized communities to create a just, fair and equal society through litigation, law reform, research and legal education.

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GET ORGANIZED!

Join a tenants union or organize one yourself. Contact the DTES SROC at: dtes.sro.collab@gmail.com or the Vancouver Tenants Union at:

www.vancouvertenantsunion.ca

Eviction Protection

1. Pay your rent on time

Tenants rarely win at arbitration if rent is unpaid or repeatedly late. Since landlords can enforce evictions more easily when money is owed, do not withhold rent. If you pay cash for rent, get a receipt.

2. Keep copies of all paperwork

Keep all documents related to your tenancy, including tenancy agreements, condition inspection reports, receipts and letters or warnings from your landlord in a safe place. These can be used as evidence if you need to dispute an eviction.

3. Document all communications

Keep track of correspondence with your building manager or landlord. Print copies of emails, save text messages and letters and document the date, time and content of all conversations about your tenancy.

4. Document maintenance issues

Take photos of your unit, including any damage, when you move in. Document maintenance issues as they arise. Record the date, time and content of all maintenance complaints and conversations with your landlord.

5. Record interactions with City and police

If you call the police or the City (311) about a problem in your building, record the file number and ask for a copy of the report.

6. Prepare your evidence

Before a dispute resolution hearing, gather all photos, paperwork, correspondence, videos and voice recordings. If you can, ask a witness to write a statement or testify to support you.

7. Know your resources

Get to know the advocates and services in your neighbourhood (See Page 9). Learn about tenants' rights ahead of time.

The Rules of Eviction

An eviction or "notice to end tenancy" is when a landlord forces a tenant to move out. Your landlord must follow certain rules in order to legally evict you.

Illegal evictions can be disputed at the Residential Tenancy Branch.

Your landlord:

Must give you a proper eviction notice

Notices must be in writing, signed, and dated. They must contain the address of the rental unit, the date the notice takes effect and a reason for the notice. In addition, the notice should be on the proper form found on the Residential Tenancy Branch website.

Must not evict you immediately

Depending on the cause for your eviction, your landlord must give you a specific amount of time before they can force you to move out. (*See timelines on the next page.*)

Must serve you the eviction notice properly

Proper service includes service in person, by mail, or by attaching to the door of the address where you live. Your landlord usually cannot serve you the eviction notice by email or text message.

TRUE STORY:

A tenant we know who fought his landlord for repairs got six eviction notices over two years. He fought back, won every single time and got compensation for harassment. Eventually his landlord got so tired of the battles that he sold the building to a better owner!

This tenant's motto about eviction defence:

"95% evidence 5% story."

Must justify the eviction

If you apply for a dispute resolution hearing, your landlord must justify your eviction to an arbitrator. Your landlord may submit evidence, which can include witness testimonies, documents and pictures. You should receive all evidence from a landlord at least 7 days before the hearing.

Must NOT change your locks

Your landlord cannot change your locks, or try to remove your belongings, or physically remove you from the rental unit while you are still in the process of disputing your eviction.

You Must Act Fast!

Act quickly to dispute an eviction notice or it will be assumed that you accept it. The amount of time you have to apply for a hearing will depend on the cause for eviction. *(If you don't know the cause, see the info on Page 6).*

5 days to dispute an eviction notice related to "unpaid rent"

10 days to dispute an eviction notice related to "cause"

15 days to dispute a "no fault" eviction notice, including landlord's use of property

30 days to dispute "renovictions" and "demovictions"

14 days before the hearing date to submit your evidence to the RTB and to serve it on your landlord

For help calculating time limits visit:
www.housing.gov.bc.ca/rtb/WebTools

BE AWARE:

Even if you don't agree with the reasons for your eviction, **DO NOT** ignore an eviction notice unless you plan to move out on the eviction date. If you do not know what to do, get legal advice.

Legal 'Causes' for Eviction

Your landlord must have cause to evict you. If your landlord follows all the proper steps, you can be evicted for:

1) Unpaid rent (10 days to move out):

This type of notice *may* be cancelled if you pay your full rent within 5 days of receiving notice. If you are repeatedly late with your rent payments, your landlord may still be able to evict you.

2) 'Causing' a problem (1 month to move out):

- **Failing to pay the rent on time**, usually at least 3 times.

NOTE: this includes utilities and fees that you are required to pay to your landlord under your tenancy agreement.

- **Failing to pay a security or pet deposit** within 30 days of the due date listed on the tenancy agreement.
- **Allowing an unreasonable number of occupants** to live in the unit.
- **Significantly disturbing or interfering with** another tenant or your landlord.
- **Engaging in illegal activity** that has or is likely to cause damage to the property or is likely to affect the quiet enjoyment, security, safety, or physical well-being of another tenant in a negative way.

NOTE: you can be held responsible for the activities of a guest or someone you have permitted on the property.

- **Causing extraordinary damage** to the rental unit or property.
- **Failing to comply with a material term** of your tenancy agreement.

3) 'No Fault' Evictions (2 months to move out):

These evictions must be enforced in "good faith," meaning that the landlord must honestly intend to use the rental unit for the

purpose stated on the eviction notice. If you think your landlord is being dishonest, you can challenge their intent at dispute resolution.

- **Landlord's Occupancy of the Unit:** a landlord or a close family member of the landlord intends to live in the rental unit.
- **Sale of Property:** a landlord enters into an agreement to sell the rental unit and the purchaser or the purchaser's close family member intends to occupy the rental unit.
- **Construction ("Renoviction"):** a landlord intends to demolish, renovate, repair the unit, or 'convert' the residential property into another type of property.
 - UPDATE: These evictions now requires 4 months notice

NOTE: a landlord must have all the necessary permits and approvals before giving you an eviction notice.



photo: Murray Bush

UNITED WE STAND:

It's easier to stand up to landlord intimidation and harassment if your neighbours back you up. Make friends and help your neighbours. We're all stronger together.

If You Lose at the RTB

- Decisions made at the BC Residential Tenancy Branch (RTB) are final, and if the arbitrator at your hearing decides that you must move out, you are required to do so by law.
- If you do not agree with the arbitrator's decision, you can apply to have it reviewed by the RTB or in BC Supreme Court. If you intend to do this, ask a legal advocate for help immediately.
- If you do not move out by the eviction deadline, you still have rights. Your landlord can't legally change your locks, remove your belongings, or physically remove you from the unit without first taking a number of steps.

Prior to changing the locks or having a tenant physically removed, a landlord must:

- **Apply for an Order of Possession (OP)** from the RTB. You can dispute the OP, but you need to respond quickly and you may need to get an advocate to help you do this successfully.
- **Get a Writ of Possession** from BC Supreme Court giving it the legal authority to have you and your belongings physically removed by a bailiff and to change the locks. Beware of people posing as bailiffs. If a bailiff arrives to enforce an order, ask for i.d. and a copy of the Writ to make sure they are authorized. You can find a list of authorized bailiffs on the BC gov't website.

BE AWARE: You may be ordered to repay your landlord for the costs of getting an OP or Writ of Possession. This could be hundreds or thousands of dollars.

If you have abandoned personal property at the rental unit, a landlord must keep an inventory of the belongings, store them safely for at least 60 days and give you a chance to reclaim them.

BE AWARE: A landlord can dispose of abandoned property if it is believed to be worth less than \$500 or if storing it would be too costly, unsanitary or unsafe.

Help & Resources

The Residential Tenancy Branch (RTB) is the government department that deals with tenancy law in BC, including the Residential Tenancy Act and Regulation. When there is a tenancy problem that you and your landlord are unable to resolve, you can apply for dispute resolution through the RTB. The process can be complicated, and you may want help:

Legal Advocates Can:

- Teach you about your legal rights as a tenant
- Apply to the RTB to dispute your eviction
- Help you properly serve your documents on a landlord
- Create an evidence package
- Represent you at an RTB hearing
- Help you apply for a review, if you are not successful

Legal Advocate Offices in Vancouver:

- **Access Justice:** 604 878 7400
- **Atira Advocacy** (women only): 604 428 9202
- **Community Legal Assistance Society:** 604 685 3425
- **DTES SRO** (Single Room Occupancy Hotel)
Collaborative: 604 839 0379 or dtes.sro.collab@gmail.com
- **DTES Women's Centre:** 604 681 8480
- **First United Church Advocacy:** 604 681 8365
- **Kettle Friendship Society:** 604 251 2801
- **Tenant Resource and Advisory Centre:** 604 255 0546

For more information about tenancy and the dispute resolution process, go to: **www.tenants.bc.ca**. If you are interested in joining the Vancouver Tenants Union, contact: **tenantsunion.yvr@gmail.com**

BE AWARE:

Some landlords offer bribes to get tenants to move out. Offering bribes is a form of harassment and could be used as evidence of an illegal eviction.

WORKBOOK

This section is intended to help you keep track of useful information you might need to dispute an eviction.



Move-in Details

Refer to your tenancy agreement when filling out this page.

Landlord's first and last name: _____

Landlord's company name: _____

Landlord's contact info (phone, address):

Building manager's name: _____

Building manager's contact info (phone, address):

Address of the rental unit:

Date of move-in condition inspection report:

Date on which the tenancy began:

What type of tenancy agreement do you have?

☐ month-to-month tenancy agreement (Option A)

☐ fixed term tenancy agreement (Option B)

If your tenancy is for a fixed length of time, did you initial a vacate clause? ☐ yes ☐ no ☐

What is your monthly rent? _____

Does this include utilities? ☐ yes ☐ no

Landlord Communications

It is important to document all communications with your landlord. This includes conversations, letters, emails and text messages, along with the dates and times of each. Whenever possible, have exact copies made.

Date:

Communication: Details:

[illegible]

Maintenance and repairs

Document maintenance issues on an ongoing basis, along with the time period during which they occurred. Remember, your first step is always to write a letter to your landlord. For help writing the letter, you can visit tenants.bc.ca

Your next step is to file a complaint with the City by calling 311 (in Vancouver). Be sure to ask for a file number and write down the details of your call. The documentation of all complaints you make to your landlord and the City is Gold Star evidence that can help you get a repair order and compensation.

Details:

[illegible]

Maintenance and repairs

Details:

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14

Safety calls to police

As a tenant you have the right to peace and quiet and to be free from harassment or violence in your home. If you complain about your landlord, neighbours or rental unit to the police, always ask for the file number and request that someone come to check the situation.

Email foi@vpd.ca to get a copy of your report for evidence.

File # _____

Date of call: _____

Details of call:

[illegible]

Witness Statements

If you need to file for dispute resolution at the RTB, you will need to provide evidence so that the arbitrator understands your case. It can help to have witnesses (i.e. neighbours) provide witness statements and, if possible, testify at an RTB hearing.

Witness name:

Witness contact info:

Date of Statement:

Witness Signature:

Statement:

[illegible]

Witness Statement

Witness name: _____

Witness contact info: _____

Date of Statement: _____

Witness Signature: _____

Statement: _____

Eviction Checklist

- ☐ Make sure rent is paid
- ☐ Try to resolve problem through communicating with the landlord
- ☐ Start documenting and saving all communications
- ☐ Detail any complaints you've made to the City or to the police
- ☐ Make sure eviction notice is on proper form and has been served correctly
- ☐ Make sure landlord is following proper timeline to enforce eviction
- ☐ Dispute eviction: File application for Residential Tenancy Branch (RTB) hearing
- ☐ Prepare for RTB hearing
- ☐ Compile evidence including receipts, paperwork and communications
- ☐ Talk to witnesses, get written statements and ask them to testify
- ☐ Talk with fellow tenants
- ☐ Join or start a tenants' rights group/union

Remember:

A legal advocate can help you with most of these steps. Seek one out if you are having trouble doing this alone (*See Page 9*).


NAME NAMES:

Your case at the Residential Tenancy Branch could end up in BC Supreme Court. For impact, you can name all the parties involved on your RTB paperwork, including the board of directors who own the property and the entire management staff.

Notes:

[illegible]

LOOK OUT FOR:

Watch for the signs that your landlord may try to evict all tenants in your building for “repairs”, such as leaving units empty instead of renting them to new tenants. 

Notes:

This image shows a single page of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There is no handwriting or other markings on the paper.

Social Housing Rights:

If you live in social housing and are unsure whether or not the RTB rules apply to you, proceed as if they do.

Tenants usually win RTB hearings, even when landlords try to tell them that because they live in social housing

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