

Prince Edward Island

Many terms may relate to legal rights and obligations that are subject to change from time to time. Exact interpretation of terminology, acts and related regulations depend on the laws/legal procedures within the province. The following are only excerpts from PEI's laws and regulations and is for information purposes only and does not constitute any legal advice. If you require further information about PEI laws and regulations, you should contact your rental authority listed at the bottom of this page or consult with a lawyer.

Governing or Regulatory Body: Office of the Director of Residential Rental Property

Name of Act / Regulations: Rental of Residential Property Act and Regulation

Types of Housing/Living Arrangements Covered by the Provincial Legislation

Furnished, partly furnished or unfurnished residential rental units including: any house, dwelling, apartment, flat, tenement, room, mobile homes and land rented as a mobile home site.

Exclusions: premises provided by an educational institution to its students; premises licensed under the Community Care Facilities and Nursing Homes Act; premises licensed under the Tourism Industry Act except when such premises are provided as accommodation for a guest for a continuous period of one month or more; premises which provide therapeutic or rehabilitative services or temporary shelter such as transition houses and hostels and other such premises which have supervisory services as that term is defined in the Community Care Facilities and Nursing Homes Act; premises provided as group homes under the Welfare Assistance Act, premises ordinarily occupied by the owner and vacated by the owner for a period not exceeding seven months during a calendar year. There is limited jurisdiction over co-operative housing.

Types of Rental Periods

Fixed term leases must have a fixed term with a predetermined expiry date. Verbal or written month to month rental agreements and week to week rental agreements are also allowed.

Is a signed lease required?

No. A verbal agreement can still be binding. Where a written rental agreement exists, the landlord must provide the tenant with a full copy of that agreement within 21 days of the date that the agreement was signed. If the landlord does not provide the tenant with a copy of the written agreement, the tenant is not bound by any terms of that agreement that go above and beyond those already implied by the Act, unless and until the landlord forwards a copy of the lease.

Those entering into a written rental agreement or renewing a written rental agreement and who do not sign the province's standardized rental agreement, Standardized Form of Rental Agreement, are deemed to have done so and all the provisions of the Rental of Residential Property Act and the standard agreement apply.

Is a signed move in/move out condition report required?

No. A checklist is recommended but not required.

Deposits

The security deposit cannot be greater than one week's rent for a weekly tenancy or one month's rent in any other circumstances. A landlord must request a security deposit on or before the date that the landlord and the tenant enter into the rental agreement. Interest is added to the security deposit each year at a rate that is set annually by a formula prescribed by legislation. When the tenant moves out of the residence, the landlord must either return the security deposit plus accrued interest to the tenant within ten days or serve the tenant with a notice stating why the security deposit is being retained. A landlord can retain the security deposit for cleaning, damages or rent owing. If a tenant receives a Notice of Intention to Retain security Deposit from the landlord and doesn't agree with the landlord's reasons for keeping the security deposit, the tenant has 15 days to file an Application Re Determination of Security Deposit with the Director of Residential Rental Property. A tenant should provide the landlord with their forwarding address when they move out.

Key Money

Requiring key money is illegal.

Post-dated Cheques

Landlords may request post-dated cheques, but the Act does not specify how rent is to be paid. If a rental agreement signed by a tenant provides that payment is to be made by post-dated cheques or by pre-authorized withdrawals or any other method, then the tenant is bound by the agreement.

Renewal of a Lease Term

Where a fixed term rental agreement is not terminated by the landlord or the tenant, upon its expiration it automatically converts to a month-to-month rental agreement. If the fixed term rental agreement contains an option to renew, and the tenant fails to renew the fixed term, the landlord can serve the tenant with a Notice of Termination.

Terminating a Rental Agreement: Notice and Timing

A tenant cannot terminate a fixed term rental agreement other than at the end of the fixed term. A tenant who wishes to terminate a fixed term rental agreement early must apply to the Office of the Director to terminate the agreement, but such permission is not often granted. Landlords may only terminate a rental agreement for specified reasons as set out in the legislation and cannot terminate simply because a fixed term rental agreement has expired. However, if the lease contains an option to renew and the tenant fails to renew the lease, the landlord can serve the tenant with a Notice of Termination on that basis. Once a fixed term agreement converts to a month to month agreement, the landlord cannot force a tenant to sign another lease or agree to another fixed term. When a lease is renewed and unless otherwise agreed, other than the new term of the lease, all other conditions of the lease remain the same.

Depending on the situation, parties may need to serve a notice or a document to a landlord, to a tenant, to the Director of Residential Rental Property or to the Island Regulatory and Appeals Commission. Personal delivery, regular, certified, or registered mail of the document to the relevant person may be used.

Where there is a fixed-term rental agreement, which is often for one year, the tenant must give written notice to the landlord at least two months before the end of the lease. For a month-to-month tenancy the tenant must provide a written notice of termination to the landlord on or before the day that rent is due and at least one month before the tenant wishes to move out.

A landlord must have a reason to give a tenant notice to vacate and the notice period depends on the reason. For example:

- rent arrears: 20 days must be given,
- interfering with the quiet enjoyment of the premises by other lessees, failing to fulfill the tenant's responsibility for ordinary cleanliness of the interior of the residential premises or for damage caused by the tenant or persons permitted on the premises, damages beyond reasonable wear and tear, and the damages have not been repaired within a reasonable time: 1 month must be given, and
- a family member moving into the premises, purchaser wants possession of the premises, demolition or conversion of the building to another use, required renovations that cannot be carried out while the tenant is occupying the premises: 2 months must be given, unless it is possession of a mobile home site, in which case 6 months notice must be given.

Note — the fact that a landlord is putting the property up for sale is not grounds for terminating the rental agreement. If the ultimate purchaser wants to terminate the rental agreement because a family member wants to move in, then the purchaser gives the notice, not the vendor.

Assignments and Sublets

Where a fixed term rental agreement is for six months or more, the tenant can sublet or assign the rental unit, subject to the landlord's consent. The landlord cannot unreasonably withhold consent. If a tenant believes that consent has been unreasonably withheld, he or she may apply to the Director of Residential Rental Property for an order authorizing the sublet or assignment.

Rent Increases: Notice and Timing

The annual allowable percentage rent increase is set by The Island Regulatory and Appeals Commission (IRAC) each year. That rate can be different for heated and unheated premises. Any landlord who wishes to increase the rent must serve the tenant with a Notice of Increase in Rent of Residential Premises at least three months before the date the recent increase is to take effect. In addition to serving a notice to the tenant, a landlord who wishes to raise the rent by greater than the allowable rate set by IRAC must apply to the Director of Residential Rental Property for approval. Landlords may not raise the rent until a fixed-term lease expires. Rent increases are tied to the property, not the tenant. A landlord can increase the rent for a unit once a year, and the amount of rent increase is the same regardless of the number of people living in the unit, or whether the unit has changed hands. The rent for a new tenant should be the same as for the previous tenant if a rent increase in that year was already made.

Late Rent Payments

Late rent payments can only be charged if the written rental agreement contains provisions for a penalty for late payment of rent, and the penalty cannot exceed one per cent per month of the monthly rent.

Evictions

The term eviction does not occur in the Rental of Residential Property Act. Instead a landlord must apply for an application for delivery of possession if the rental agreement is terminated and the tenant does not move out.

As noted above, there are several reasons why a tenant may be evicted and the required notice period the landlord must give depends on the grounds for eviction. The main reason for eviction is the failure to pay rent. If rent is due on the first day of the month and the tenant doesn't pay the rent on that day, the landlord can issue a notice of termination. A tenant can invalidate the notice by paying all of the outstanding rent within 10 days of receiving the notice or the tenant will have to vacate by midnight of the 20th day after the notice is served.

If a tenant receives more than two Notices of Termination that indicate non-payment of rent as the reason for termination, the landlord may apply to the Director of Residential Rental Property for an order terminating the tenancy based on persistent late payment.

There is no statutory requirement for more than two Notices; however, as a matter of evidence, multiple notices are usually required to prove persistent and habitual lateness.

Where a notice of termination is served by the landlord, the tenant can make application to the Director within 10 days to set aside the notice of termination and the application is dealt with in a hearing of both parties. If the tenant doesn't file an application to set aside the notice of termination within the 10 days, it is deemed that the tenant has accepted the vacate date on the notice of termination and should move out by the date stated. If the tenant doesn't vacate, the landlord can file an application requesting possession of the residential premises.

Permitting Landlord Entry to the Premises (Times and Reasons)

Except in the case of an emergency, a landlord shall not enter the premises without the consent of the tenant unless the landlord has served written notice stating the date and time of the entry with at least 24 hours' notice. The entrance time stated must be between 9:00 a.m. and 9:00 p.m.

May the tenant withhold rent for repairs?

No. However, a tenant may apply at any times while the rental agreement is in effect for the Director to inspect the premises and make an order for any repairs that the Director deems necessary to be made.

Changing Locks

Both the landlord and tenant are entitled to keys to the locks of the access doors to the premises at all times, so neither can change the locks without the consent of the other during the rental agreement.

Pets and Smoking

May a landlord refuse to rent to a tenant who has pets?

Yes, as long as the reason given doesn't violate the Human Rights Act.

May a landlord include a no-smoking clause in the lease?

Yes.

If a no pets and no smoking clause is written into a lease and the landlord discovers that the tenant has a pet and/or smokes in the rental unit, is this grounds for the landlord to evict the tenant?

Yes, if a tenant breaches the rental agreement by having a pet or smoking in the rental premises this could result in termination of the rental agreement.

Note: This does not apply to tenants who pre-date the policy. If a landlord makes a building a non-smoking or no-pets building, any smokers or pet owners already in the building are grandfathered in. Any new tenants are subject to the new policy, but it can't be imposed retroactively.

For general information about renting in Prince Edward Island contact:

Office of the Director of Residential Rental Property
5th Floor, Suite 501
134 Kent Street
P.O. Box 577
Charlottetown, PE
C1A 7L1
Toll-free: (PEI) 1-800-501-6268
Tel.: 902-892-3501
Fax: 902-566-4076
www.irac.pe.ca/rental

Related Links

Landlord and Tenant Act

www.gov.pe.ca/law/statutes/pdf/l-04.pdf

Rental of Residential Property Act

www.gov.pe.ca/law/statutes/pdf/r-13_1.pdf

Residential Rehabilitation Assistance Program (Rental)

A description of this program for landlords, which provides assistance for repairs to self-contained units occupied by low-income tenants.

Rental Agreements

On-line Q and A about what landlords/tenants should know before entering into a rental agreement.

www.irac.pe.ca/rental/document.asp?f=rental-agreements.asp

For concerns about a Rental Agreement

www.gov.pe.ca/infopei/index.php3?number=20580

Director of Residential Rental Property

This page explains the role of the Director of Residential Property and has an extensive list of forms to be used when a dispute develops between landlords and tenants.

www.irac.pe.ca/rental/

Forms and Processing Fees

A list of forms related to landlord-tenant relations, along with the applicable fees (if any apply).

www.irac.pe.ca/rental/forms/rentalforms.asp

Allowable Rent Increases

Explains what allowances are available for rate increases and includes a table that lists the allowable increase rate from 1989 — present.

www.irac.pe.ca/rental/document.asp?f=rentincreases.asp