



## FAQs - TENANCY ISSUES AND THE COVID-19 CRISIS

### HAS THE NOVA SCOTIA GOVERNMENT MADE CHANGES TO THE RESIDENTIAL TENANCIES ACT TO PROTECT TENANTS FROM EVICTIONS DURING THE COVID-19 CRISIS?

No, the government has not enacted any legal protections for *residential* tenants as a result of Covid-19. That could change, but until it does, the only protection a tenant has, lies in the fact that the landlord can't apply to Access NS to have a tenant evicted for non-payment of rent. (Access NS is where tenants and landlords file applications to Residential Tenancies.) Access NS offices are closed until further notice and are not accepting non-emergency Residential Tenancies (RT) applications.

### I'M A TENANT AND CAN'T PAY RENT BECAUSE MY INCOME WAS REDUCED DUE TO THE COVID-19 CRISIS. CAN I BE EVICTED?

The answer to this question is not straightforward.

We know the government said that residential tenants cannot be evicted if rental arrears are the result of reduced employment income due to COVID-19. Circumstances could include you lost your job due to closure, you are ill, you left work to care for children or another family member. The government also stated that tenants are obligated to pay rent and if they are unable to do so, they should make a repayment arrangement with landlords.

**Remember** – The government stated that Access NS is closed until further notice and will not be accepting **non-emergency** RT applications during this time. An eviction for rental arrears is defined as **“non-emergency.”**

So, right now, the only reason landlords cannot obtain an “Order of the Director for vacant possession” (an eviction order) to evict tenants for non-payment of rent is because Access NS centers are closed for non-emergency applications until further notice.

**NOTE: Once Access NS opens landlords may file to evict for non-payment of rent. Your obligation to pay rent under the terms of your lease will not change regardless of the reason for the non-payment.**

**I'M A TENANT WHO IS WORKING, OR RECEIVING EMPLOYMENT INSURANCE, OR THE CANADA EMERGENCY RESPONSE BENEFIT. I COULDN'T PAY RENT BECAUSE I DON'T HAVE ENOUGH MONEY FOR FOOD, MEDICINE AND OTHER NECESSITIES. CAN I BE EVICTED?**

Because Access NS is closed until further notice, the landlord cannot apply to RT for an Order to have you evicted at this time.

**NOTE: Once Access NS opens landlords may file to evict for non-payment of rent.**

**THE LANDLORD SERVED ME WITH A “NOTICE TO QUIT FOR RENTAL ARREARS” BECAUSE I COULDN'T PAY MY RENT DURING THE COVID-19 CRISIS. WHAT CAN I DO?**

Don't panic. The landlord is allowed to serve you with a Notice to Quit for Rental Arrears for non-payment of rent during the COVID-19 crisis. However, a Notice to Quit for Rental Arrears is not sufficient to evict you.

In order to evict you the landlord requires an Order of the Director for vacant possession, known as an eviction order. To get that Order, the landlord must file an RT application at Access NS. The landlord cannot file an RT application nor obtain an Order because Access NS is closed until further notice.

However, if your landlord serves you with a Notice to Quit for Rental Arrears while Access NS is closed, keep a copy of it and keep informed as to when Access NS reopens. As soon as Access NS reopens you should file an RT Application to dispute the attempted eviction. (See below for more information.)

**NOTE: Once Access NS opens landlords may file to evict for non-payment of rent.**

**CAN I BE EVICTED WHEN ACCESS NS RE-OPENS IF I COULDN'T PAY THE RENT DUE TO REDUCED INCOME AS A RESULT OF COVID-19?**

The answer is yes, but there is a legal process that takes place and you must be included in it. Legal support is available to help you through this system. (See contact information below.)

If you have rental arrears due to COVID-19, and you weren't able to make a repayment agreement, the landlord can apply to have you evicted. This is the process:

The landlord must serve you with a “Notice to Quit for Rental Arrears”.

**When you get this Notice, you have 15 days to take either of these three options:**

1. Pay the outstanding rent in full. The notice is cancelled and no further applications to RT are necessary.
2. File an “Application to Director” disputing the notice to quit at Access NS. Do this as soon as Access NS reopens. There is a fee to make an application. Ask for a **FEE**

**WAIVER** if you receive Income Assistance, the Guaranteed Income Supplement, or are unable to afford the fee. Be prepared to show proof of your income at this point.

3. Vacate your home by the date on the notice. Remember: the landlord is still entitled to an order for any rent you owe.

**After 15 days, if you don't take any of the above actions, the landlord will:**

Apply to have you evicted – this allows the landlord to get an eviction order, rental arrears, damage deposit etc. **without a hearing**. The landlord must serve you with notice that they have made this application, but the RT Office will grant an order without a hearing. (This means you won't have a chance to tell the RT Office your side of the story.)

**NOTE: If you have filed an "Application to Director" disputing the notice to quit, the RT Office must hold a hearing where you can tell your side of the story. Nearly all RT hearings are via telephone.**

When a Telephone Hearing is Scheduled

If a telephone hearing is scheduled, you will be notified of the time and date. Prior to the telephone hearing you will have to prove that your income was affected by the COVID-19 crisis to the RT Office. The RT Office will tell you how to submit your evidence. (Evidence could be a letter from your former employer, your doctor, or the daycare where your children attended.)

Mediation

Prior to the hearing you and the landlord will be offered to enter into mediation to resolve the dispute. Both parties must agree to mediation. Mediation could include giving you more time to pay the rental arrears. If mediation is successful the RT Office will prepare a document that sets out the terms of the agreement called a "Mediated Settlement."

If you or the landlord don't follow the terms of the Mediated Settlement either party can apply to have it made into an Order of the RT Director. (See the next page for more information.)

If the landlord applies to have the Mediated Settlement made into an Order of the RT Director because you weren't able to follow the terms of the Mediated Settlement, they will get the Order and it will state the date when you will be evicted. (See the next page for more information.)

**NOTE: If you follow the terms of the Mediated Settlement, the landlord cannot apply to have you evicted for non-payment of rent on this application.**

No Mediation = RT Hearing

If you or the landlord do not agree to mediation, a hearing will take place. You will be able to have witnesses give evidence, explain your evidence and tell your side of the story (the landlord can do the same). The RT Office will hear all the evidence and then has 14 days to send a copy of their written Order, to you and the landlord.

**NOTE: The fact your income was affected by COVID-19 will not change the amount of rental arrears you owe, but the RT Office could refuse to grant the landlord an eviction Order and give you more time to repay the arrears. The RT Office could also agree to evict you at this time and the Order will set that date and the amount of arrears owing.**

Next steps once an RT Order is issued:

The tenant will receive a copy of the Order from the RT Officer. It is important to note that the RT Office will send this via regular mail to whatever civic address the landlord provided to Access NS. You have **10 days** (calendar) from the date of the Order to file your appeal of the eviction order to the Small Claims Court.

**NOTE: Ten calendar days includes weekends, and statutory holidays. If the 10th day falls on a Saturday, Sunday or a holiday, the appeal deadline is the next business day.**

**IMPORTANT:** If you file an appeal to Small Claims Court, this stops the eviction process. The landlord cannot tell you to leave your home, change the locks etc.

There is a fee to appeal to the Small Claims Court. These fees change so check current fees at the Courts of NS website: [https://www.courts.ns.ca/Small\\_Claims\\_Court/nsscc\\_home.htm](https://www.courts.ns.ca/Small_Claims_Court/nsscc_home.htm)

There is a **fee waiver** for people who receive Income Assistance, other fixed incomes, or are unable to afford the fee. Talk to the Small Claims Court about this. The Small Claims Court hearing is a new hearing where you can bring new evidence and witnesses to help you prove your case.

Getting more legal information could be helpful at this point. Contact:

- Dalhousie Legal Aid Service - through Facebook or call 902.423.8105
- NS Legal Aid (in your area) - <https://www.nslegalaid.ca/>
- Legal Information Society of NS - <https://www.legalinfo.org/> or 902-453-3135

**CAN I BE EVICTED WHEN ACCESS NS RE-OPENS IF I HAD AN INCOME (WORKING, EMPLOYMENT INSURANCE, CANADA EMERGENCY RESPONSE BENEFIT) BUT COULDN'T PAY RENT BECAUSE I DON'T HAVE ENOUGH MONEY FOR FOOD, MEDICINE AND OTHER NECESSITIES.**

Yes, the landlord may apply to have you evicted. The process is the same as what is described above.

**CAN I BE EVICTED FOR ANY OTHER REASONS DURING THE COVID-19 CRISIS?**

Yes, the landlord can apply for an **emergency** RT hearing to evict you because your behavior or actions are endangering other tenants, the landlord's employees, or the landlord's property. Access NS is accepting emergency applications.

**THE LANDLORD REFUSES TO DO REPAIRS, HAS DISCONTINUED UTILITIES, OR IS AFFECTING MY HEALTH AND PERSONAL SAFETY. WHAT CAN I DO?**

You can make an emergency RT application under the above circumstances. Call Access NS at 1-800-670-4357 for more information. Access NS is accepting **emergency** applications.

## **CAN THE LANDLORD ENTER/SHOW MY UNIT DURING THE COVID-19 CRISIS?**

Landlords in NS can enter your unit even during the COVID-19 crisis:

- If there is an emergency (flood, fire, other disturbances)
- If they give you 24-hours' notice that they require entry for a reasonable purpose and they enter between 9am and 9pm
- If either party has served a Notice to Quit or a fixed-term lease is coming to its end and the landlord wants to show the unit between 9am and 9pm

However, under the current Health Protection Act Order all people in NS are to practice “social distancing” – 2 meters (6 feet) distance between people who do not live in the same household, and there cannot be more than five people gathering at one time.

If the landlord is violating this Order, or is violating your personal safety/health you can contact the police using a non-emergency number. You can also make an emergency RT application by calling Access NS at 1-800-670-4357.

## **THE LANDLORD IS SELLING THE PROPERTY I LIVE IN. THEY TOLD ME I HAVE TO ALLOW REAL ESTATE AGENTS, REPAIR PEOPLE AND BUYERS INTO MY HOME. WHAT CAN I DO?**

If you do not want these people to enter your home because you are scared of COVID-19 infection due the actions of your landlord, their agent, workers or potential tenants/buyers you can contact the police using a non-emergency number. You can also make an emergency RT application by calling Access NS at 1-800-670-4357.

## **CAN THE LANDLORD RESTRICT WHO CAN VISIT ME?**

No, your landlord has no legal right to restrict your visitors.

However, if you have more than five visitors at a time, or your visitors are disturbing other tenants, the landlord can call the police.

## **CAN THE LANDLORD REFUSE TO ALLOW ME TO RETURN HOME AFTER I'VE BEEN DISCHARGED FROM HOSPITAL?**

No, the landlord has no legal right to refuse you to return home, regardless of your illness. However, if you fail to self isolate, or quarantine yourself if you have been exposed to Covid-19, or diagnosed with Covid-19, the landlord can call the police. The police can investigate and have the power to issue tickets.

## **MORE QUESTIONS?**

MESSAGE **DALHOUSIE LEGAL AID SERVICE** ON FACEBOOK/CALL 902.423.8105

AND SEE OUR TENANT RIGHTS GUIDES AT

<https://www.dal.ca/faculty/law/dlas.html>

The information contained here does not explain the full details of the Residential Tenancies process.