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If it Ain't Broke... The Do's and Don'ts of Evicting Tenants for Repairs or Renovations

Roof repairs. Asbestos removal. Window replacements. When a British Columbia landlord faces repairs or renovations in a rental building, the decision to evict an existing tenant to conduct the repairs or renovations can be difficult. When can a landlord evict a tenant to conduct repairs or renovations? What kinds of repairs or renovations are insufficient to warrant an eviction? Before issuing an eviction notice, landlords should prepare to **REPAIR**:

R: Review the Residential Tenancy Act

Landlords wishing to evict for repairs or renovations should read the Residential Tenancy Act, S.B.C. 2002, c. 78. Under section 49(6) of the Act, landlords are permitted to evict a tenant on two month's written notice for the purpose of completing repairs or renovations. However, not all repairs or renovations are treated equal. The law requires that before issuing a *2 Month Notice to End Tenancy*, the landlord must have all of the necessary permits

required by law to conduct the repairs or renovations, and the landlord must intend in good faith to renovate or repair in a manner that requires the suite to be vacant. The landlord is also obligated to compensate the tenant the equivalent of one month's rent on or before the move-out date.

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E: Estimate the Time to Repair or Renovate

The Courts have recognized a tenant's right to continue their tenancy and temporarily relocate during work that requires vacant possession. In the case of *Berry and Kloet v. British Columbia (Residential Tenancy Act, Arbitrator)*, 2007 BCSC 257, the Court recognized two dimensions to the vacant possession requirement: first, the renovations must be so extensive that they require an empty suite; and second, the landlord must prove that the only manner to achieve an empty suite is by terminating the tenancy. If a tenant is willing to empty the rental suite for the duration of the work, then a *2 Month Notice to End Tenancy* is unlikely to be upheld.

P: Prepare the 2 Month Notice to End Tenancy

In addition to the above-noted requirements, landlords must issue the *2 Month Notice to End Tenancy* on the prescribed form published by the Residential Tenancy Branch. If a landlord does not use the prescribed form, then the eviction will likely be overturned.

A: Address Tenant Queries

Landlords who issue a *2 Month Notice to End Tenancy* can expect questions from their tenants regarding the nature and scope of the proposed work. As a result, in conjunction with issuing a *2 Month Notice to End Tenancy*, best practices include providing tenants with an information package detailing the anticipated work and the reasons behind the proposed repairs or renovations. By keeping the door open for information requests, landlords can often close the matter off to future disputes.

I: Identify Opportunities for Dispute Resolution

In the event that a tenant disputes a *2 Month Notice to End Tenancy*, landlords should consider opportunities for early resolution. A dispute resolution hearing with the Residential Tenancy Branch is considered to be a last resort for landlords and tenants to resolve their disputes. If alternative remedies exist that would facilitate the repairs/renovations in the suite without evicting the tenant, or if the landlord and tenant can make a mutual agreement to end tenancy that facilitates alternative move-out arrangements (e.g. the provision of additional moving time or compensation to the tenant), then these options should be explored before going to the Residential Tenancy Branch.

R: Repair or Renovate the Suite within a Reasonable Period of Time

Finally, once a tenant moves out, landlords have an obligation to deliver on their demand. If a landlord does not take steps toward the purpose for which the eviction notice was given within a reasonable period of time or if the suite is not used for the stated purpose for at least six months, then a tenant is entitled to additional compensation equivalent to two months' rent. As landlords are well aware, the cost of repairs and renovations can sometimes go over budget – don't let this expense become a part of your final bill.



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