
Landlords

How to Enforce a No-Smoking Policy

If a tenancy agreement includes a no-smoking clause, this is a material term of the tenancy agreement. A breach or violation by the tenant gives the landlord the right to end the tenancy if necessary. Use the same warning/enforcement methods for the smoking policy that you use for any other violation of a material term of the tenancy agreement.

Steps for enforcing a no-smoking policy

1. If there is evidence that a violation has occurred, issue a Caution Notice advising the tenant that:
 - i. They have breached a material term of the tenancy agreement (give specific examples of the breach);
 - ii. Make a specific statement regarding the compliance required, such as “cease smoking anywhere on the residential property” or “confine your smoking to the designated area of the property”; and
 - iii. Clearly state that failure to comply could result in the tenancy ending (eviction).
2. Document all violations and conversations with the tenant.
3. Try to get witnesses who agree to testify to incidents of smoking by the tenant.
4. If the tenant fails to comply with the Caution Notice, serve a one month ‘Notice to End Tenancy for Cause’ using the appropriate Residential Tenancy Branch form.
5. If the tenant disputes the Notice to End Tenancy, you must provide evidence to prove the reasons for ending the tenancy.

Enforce provincial/municipal smoke-free legislation

In accordance with Section 2.3(3) of the *Tobacco Control Act*, Landlords are responsible for enforcing the smoking ban in common areas and entrances of apartment buildings. The regulations do not apply to the private rental units, but do apply to areas that are common to all tenants, workers and guests of the building.

Tips for ensuring compliance with provincial smoke-free legislation:

- Notifying residents of the smoke-free areas
- Posting signs
- Removing ashtrays from areas where smoking is banned
- Reminding smokers to smoke 3 meters away from the building (unless the municipal bylaw is stricter)

If the Landlord is not able to enforce the legislation, he or she should contact their local Health Authority, and ask for a representative in the tobacco control area. Tobacco Enforcement Officers through the various health authorities are charged with the day-to-day enforcement of BC tobacco control legislation.

Where municipal bylaws are stricter than provincial legislation, unresolved complaints should be made to the municipal bylaw enforcement department. Read more about BC tobacco laws on our website.

Address complaints of second-hand smoke

If your building is converting to smoke-free status, it is still important to address complaints of second-hand smoke migrating from 'grandfathered' units where smoking is still allowed into non-smoking units.

Here are some steps to consider:

- Clarify with staff that while grandfathered tenants may be allowed to smoke in their units, complaints of second-hand smoke must still be addressed.
- In the absence of a no-smoking clause in the tenancy agreement, if a landlord receives complaints that smoke from a neighbouring unit is significantly bothering other tenants, the second-hand smoke can constitute a breach of Quiet Enjoyment.
- If warranted, a landlord can issue a *Notice to End Tenancy for Cause* if it can be proven that the smoke is infiltrating the homes of other tenants, and there is evidence that the smoke infiltration is severe enough to cause an unreasonable disturbance.
Note: it must be more than a temporary discomfort or inconvenience. This is especially important if a landlord is seeking to evict a tenant for cause.

For more information, visit our website section on Quiet Enjoyment, *Tips for addressing complaints of second-hand smoke*.

Quick fixes to reduce smoke transfer

Here are some suggestions for reducing smoke transfer between units. Keep in mind these are only interim measures and will not eliminate the problem:

- Install weather-stripping around doors and windows.
- Fill or patch cracks in walls, ceiling, and inside of cabinets on common walls
- Insulate the air spaces around plumbing pipes.
- Insulate and place covers over electrical outlets and phone jacks.
- Check the structure of your residence as sometimes structural weaknesses will allow second-hand smoke to travel between units.
- Ensure the building ventilation system is working efficiently by:
 - Cleaning, changing or installing new filters;
 - Adding more fresh air intake into the ventilation system (this might involve adjusting the timer, if applicable);
 - Restricting the amount of air exhausted through the ventilation system from the units of tenants who smoke.

Related

[Canada Mortgage and Housing Corporation article](#) - provides tips on addressing indoor air quality issues in multi-unit dwellings.

[Indoor Environmental Engineering](#) - U.S company that provides information on indoor air quality in residential buildings.