

ABANDONED GOODS



STATUTORY REFERENCES

Residential Tenancies Act sections:

- 1(1)(f) definition of landlord
- 1(1)(t) definition of tenant
- 1(1)(l) definition of residential premises
- 31 abandoned goods

Residential Tenancies Ministerial Regulation sections:

- 5 abandoned goods
- 6 establishing tenant's liabilities

GUIDELINES

This section of the RTA does **not** apply to the goods left at residential premises when an Order for Possession is executed by a civil enforcement agency. These goods are to be handled in accordance with the Rules of Court.

Abandoned Goods are goods that are left at residential premises by a tenant who has

- Abandoned the premises, or
- Vacated at the end of the tenancy, as it may have expired or been terminated, but left their things behind

GOODS VALUED AT LESS THAN \$2,000.

If a landlord believes that the total market value of the goods is less than \$2,000, then the landlord can dispose of the goods

GOODS VALUED AT MORE THAN \$2,000.

If a landlord believes that:

- It would be unsanitary or unsafe to store the goods, or
 - That storage of the goods would result in total or substantial depreciation of the total market value, or
 - The cost of removing, storing and selling the goods would exceed the proceed of their sale,
- the landlord may then sell the goods in a way and for a price that the landlord believes is reasonable.

Unless the previously stated conditions are met, the landlord **must**:

- Store the goods or arrange for storage of the goods on behalf of the tenant for 30 days from the day the goods were abandoned, and
- After the 30 days have passed, the landlord may dispose of the goods by public auction or if the Courts or the Residential Tenancy Dispute Resolution Service (RTDRS) approve, by private sale. If at public auction the goods are **not** bid on, then the landlord can dispose of them.

The landlord is **not** personally liable for goods that are sold or disposed of, if those goods are sold or disposed of in accordance with the legislation.

The person that acquires the abandoned goods through their disposal or sale by the landlord then has rights over those goods and becomes the owner of those goods. The tenant who abandoned the goods is no longer the owner.

If a tenant pays the landlord what the landlord is owed while the landlord still has the goods and pays the landlord for the cost of having to remove and store the goods, the landlord **must** then return the tenant's goods.

If the landlord sells the goods, they can use the money from the sale of the goods

- To recover their costs for removing, storing and selling the goods, and
- To recover the money owed to them by the tenant (called tenant's liability under the Regulation), if money is owed to them by the tenant in accordance with the requirements under the Regulations

The Residential Tenancies Ministerial Regulation, section 6(2) states "*tenant's liability is established for rent when the landlord makes an affidavit that sets out the amount of rent owing and sends a copy of that affidavit to the tenant's last known address*". The landlord **must** also provide a copy of that affidavit to the Director of Residential Tenancies.

The Residential Tenancies Ministerial Regulation, section 6(3) states that tenant's liability is established for damages when:

- The landlord makes an affidavit that sets out the damage done by the tenant,
- The cost of the repairs, and
- The cost for materials along with the receipts as exhibits to prove the expenses.

If the landlord completed the work themselves, labour can be charged at a reasonable cost. The landlord **must** also provide a copy of that affidavit to the Director of Residential Tenancies.

The Residential Tenancies Ministerial Regulation, section 6(4) also state that "*a tenant's liability is established if the landlord obtains a judgment from the Courts*". This includes judgments from the RTDRS.

Any monies left over after the landlord has recovered what is owed to him **must** be sent to the Minister.

The Minister will then hold that money in trust for one year. After that year has passed, the tenant will no longer have any claim to that money.

A landlord is required to keep a written record of the storage, disposition and sale of the goods. The RTA sets out exactly what **must** be included in the record. These records **must** be kept by the landlord for a period of three years after the goods are returned to the tenant, sold or disposed of.

PRACTICAL APPLICATIONS

Example, a landlord believes that their tenants have abandoned the residential premises. The landlord provides a 24-hour notice of entry then enters the house the next day. He finds that the tenant has left behind a living room set including a large sectional sofa that is infested with bedbugs. While the living room set is likely valued over \$2,000 it is unsanitary to keep and would be expensive to fumigate. Therefore the landlord can dispose of the goods.

Example, a landlord collects \$5,000 from the sale of a tenant's abandoned goods at an auction. Including the cost for removing, storing and selling the items, the landlord is owed \$3,000. The landlord **must** pay the remaining \$2,000 to the Minister, which will then be held in trust for the tenant for one year. The landlord **must** also create a written record of the storage, and disposition or sale of the goods. Those records **must** conform to the requirements under section 31(13) of the RTA and **must** be kept by the landlord for three years.

