



Phase 2 Implementation of Changes for Tenants and Landlords Renting on Westbank First Nation Land Effective September 8, 2020 and November 30, 2020

On November 30, 2020 WFN Council resolved to extend the rent increase freeze for tenancies on Westbank First Nation lands. Rent increase notices that were previously resolved by WFN Council to be effective on January 1, 2021, will now be effective on July 1, 2021.

Evictions

1. A Notice to End a Residential Tenancy can now be issued during the COVID-19 pandemic under the following circumstances:
 - a. Non-payment of rent or utilities occurring after Council's April 6, 2020 resolution in response to the COVID-19 pandemic;
 - b. Repeatedly late payment of rent or utilities occurring after Council's April 6, 2020 resolution in response to the COVID-19 pandemic;
 - c. Non-payment of a monetary order for unpaid rent or utilities;
 - d. All other reasons listed under Part III of the [WFN Residential Premises Law \("RPL"\)](#).
2. Tenants have the right to dispute a Notice to End a Residential Tenancy under section 52 of the [RPL](#) within the allowable time period identified on the form.

A landlord cannot take possession of the residential premises unless:

- a. the tenant vacates or abandons the residential premises; or
 - b. the landlord obtains an order of possession by way of an arbitration hearing.
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Arbitration Hearings

Applications for Arbitration that are submitted under the [RPL](#) will be processed by the Residential Premises Administrator ("Administrator") and a hearing will be scheduled. All hearings will be conducted by way of video conference or, if a party is unable to stream video, by telephone. There will be no in-person arbitration hearings conducted until further notice.

An Application for Arbitration must include:

- a. a fully completed application form;
- b. proof of payment of the application fee;
- c. the tenancy agreement and addendum;

- d. a copy of all applicable notices (for example, the notice of end of tenancy, letters, etc.); and
- e. any other relevant and available evidence.

The applicant must provide the Administrator with their completed application either by email to tenancy@wfn.ca or in person at the Westbank First Nation Government office, 515 Highway 97 South, attn.: Residential Premises Administrator.

Please note: applications that do not meet these requirements, or the requirements identified within the [RPL](#), will not be considered.

Application Fees

Payment of the application fee may be made in person at the first floor Cash Desk or over the telephone by calling 250-769-4999.

Application fees are non-refundable and proof of payment must accompany the application for arbitration that is provided to the Administrator.

Serving Documents

Service of all documents must still be made in accordance with section 84 of the *RPL*. Email is not an acceptable form of service, unless expressly consented to in writing by the other party.

Existing Orders

Landlords with existing Orders granting them possession may apply to the courthouse for a writ order.

Rent

Tenants must pay rent and are responsible for any unpaid rent during the specified period. If a tenant is unable to pay their rent in full at any time, they are encouraged to have open communication with their landlord to make a suitable arrangement. Parties should keep a record of their communications.

Optional Rent/Utility Repayment Agreement

Landlords and tenants *may* enter into a rent/utility repayment agreement for any unpaid rent and/or utilities during the specified period, although it is not required.

The repayment agreement must contain the following criteria to be enforceable:

- a. the payment of overdue rent/utilities must be in equal installments;
- b. ii. each installment must be paid on the same date that rent is due under the tenancy agreement; and

- c. iii. the date the first installment is due must be at least 30 days after the date the repayment plan is given by the landlord to the tenant.
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Rent Increases

Landlords can serve a Notice of Rent Increase so long as they have not issued a rent increase within the past 12 months to that tenant or the date the existing rent was established for that tenant. The rent increase will not be effective until **July 1, 2021**, or the date as indicated on the notice, whichever date is later.

The rent increase must be on the required WFN form and served in accordance with section 84 of the [RPL](#).

*If a Notice of Rent Increase was issued prior to April 6, 2020, that rent increase will be effective **July 1, 2021**.

**If a landlord has served a Notice of Rent Increase on a tenant between April 6, 2020 and June 28, 2020 (the "specified period"), it is considered invalid and a new notice must be issued. The notice period will commence once the notice is served on the tenant.

Rent increases are not retroactive and cannot be collected retroactively by a landlord. If a landlord collected a rent increase during the specified period, the tenant can deduct the additional amount from future rent payments.

Landlord Access

Landlords may still enter residential premises to conduct move-in/move-out condition inspections, monthly condition inspections, perform repairs and improvements, showings to prospective tenants, and hosting an open house. The landlord/tenant must give appropriate notice in accordance with the *RPL*. When a landlord accesses a residential premise, landlords and tenants are asked to follow public health measures (including physical distancing wherever possible), wear a mask over the nose and mouth, and follow cleaning protocol set out by public health officials to ensure the health and safety of others.

Travel

What if a landlord or tenant has recently returned from travelling internationally?

Please refer to the Government of Canada website for information on the issued Emergency Order under the *Quarantine Act* found at:

<https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/latest-travel-health-advice.html#f>.

What if a tenant chooses to self-isolate but has not travelled recently, does not have symptoms or has not contracted COVID-19?

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Those seeking additional information should email the Residential Premises Administrator at tenancy@wfn.ca or call the government office to leave a voicemail at 250-769-4999.