

# **Phase 1 Implementation of Changes for Tenants and Landlords Renting on Westbank First Nation Land Effective June 29, 2020**

---

**Please note that April 6, 2020 changes are no longer in effect as of June 29, 2020**

---

## **Evictions**

1. A Notice to End a Residential Tenancy cannot 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; or
  - c. Non-payment of a monetary order for unpaid rent or utilities.
2. A Notice to End a Residential Tenancy can be issued during the COVID-19 pandemic for all other reasons listed under Part III of the [WFN Residential Premises Law \("RRL"\)](#).
3. Landlords may issue a Notice to End a Residential Tenancy for outstanding arrears only if those arrears incurred prior to the COVID-19 pandemic.
4. A Notice to End a Residential Tenancy that does not meet these requirements or requirements identified within the WFN Residential Premises Law are not valid.

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.

---

## **Evictions – Application to End a Tenancy Early**

Landlords may apply to the Residential Premises Administrator ("Administrator") to end a tenancy earlier than 30 days only if it would be unreasonable or unfair to the landlord/other occupants to wait, or where necessary to protect health and safety, or to prevent undue damage to the property. The situation must meet at least one of the following criteria in order to apply to the Administrator:

- a. *Significantly* interfered with or unreasonably disturbed another occupant or the landlord of the residential premises;

- b. *Seriously* jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- c. Put the landlord's property at *significant* risk;
- d. Caused *extraordinary* damage to the residential property;
- e. The rental unit is uninhabitable
- f. The tenancy agreement can no longer be performed as contemplated and is therefore frustrated;

Tenants have the right to dispute a Notice to End a Residential Tenancy under section 52 of the [WFN Residential Premises Law \("RPL"\)](#) so long as it is within the allowable time period identified on the form.

### **What is the process?**

A landlord must submit a detailed written request to the Administrator that includes the following:

- a. a fully completed application for arbitration form;
- b. proof of payment of the application fee;
- c. the tenancy agreement and addendum;
- d. a copy of the Notice to End a Residential Tenancy and all other applicable notices or letters; and
- e. any other available and relevant evidence.

Requests may be provided to the Administrator either by email to [tenancy@wfn.ca](mailto:tenancy@wfn.ca) or in person at the Westbank First Nation Government office, 515 Highway 97 South, attn.: Residential Premises Administrator.

Upon receipt of the request, the Administrator will review and make a determination whether or not to allow an expedited hearing to take place. If the allowance is made, the applicant (landlord) will receive notification once a hearing date is set and the Hearing Information Packages have been prepared. The applicant is required to serve each tenant with this package. Section 84 of the [RPL](#) identifies the allowable forms of service.

The respondent (tenant) may provide evidence to the Administrator, which will be forwarded to the designated Arbitrator. The respondent must also serve the applicant with the same evidence at least two clear days prior to the hearing. For more information on this, review the hearing information document found in the Hearing Information Package or the [RPL](#).

An arbitration hearing will then take place and both parties will have an opportunity to speak to the matter. An Arbitrator will provide their decision shortly after the hearing.

A landlord cannot take possession of the residential premises unless they obtain an order of possession (through this process) or the tenant vacates or abandons the residential premises.

---

## Arbitration Hearings

Applications for Arbitration (other than those related to the circumstance identified under the "Evictions" section) that are submitted under the [WFN Residential Premises Law \("RPL"\)](#) 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 hearings pending 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](mailto: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 Residential Premises Administrator.

---

## Serving Documents

Service of all documents must still be made in accordance with section 84 of the [WFN Residential Premises Law](#). Email is not an acceptable form of service.

---

## Existing Orders

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

---

---

## Rent

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

---

## Rent Increases

Landlords are now able to 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 must be on the required WFN form and served in accordance with section 84 of the [WFN Residential Premises Law \("RPL"\)](#). Landlords may put the proposed date that the increase will take effect on the form (at least 3 months for residential homes and 6 months for mobile home pads), however, the rent increase may not necessarily take effect on that date. Once a resolution regarding the enforcement of a rent increase is made by Westbank First Nation Council, the rent increase will take effect either on the date Council decides or the date on the Notice of Rent Increase, whichever date is later.

If a Notice of Rent Increase was issued prior to April 6, 2020, that rent increase will be deferred until further notice.

If a landlord has served a Notice of Rent Increase on a tenant between April 6, 2020 and June 28, 2020, 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.

---

## Temporary Rental Assistance

The Province of British Columbia has made available a temporary rent supplement in which a tenant can apply for. This program was initially available for April, May and June but has since been extended to July and August. Those who require financial assistance during this time are encouraged to submit an application for the BC-Temporary Rental Supplement administered through BC Housing at <https://www.bchousing.org/BCTRS>. Renters who are already receiving the BC-TRS do not need to reapply for the July and August payments. Please visit the [BC Housing website](#) for more information.

---

## Landlord Access

There is no change to this section. Landlords may still enter residential premises to conduct inspections, repairs, improvements and showings, so long as proper notice is given in accordance with the *WFN Residential Premises Law*. When a landlord accesses a residential premise, landlords and tenants are asked to practice social distancing and take the necessary precautions 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?*

Landlords may still enter the residential premises to conduct inspections, repairs, improvements and showings so long as proper notice is given in accordance with the *WFN Residential Premises Law*. In doing so, landlords and tenants are asked to practice social distancing and take the necessary precautions to ensure the health and safety of others nearby.

---

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