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# Legal Rights in Independent Living

A guide to understanding your rights under  
the ***The Residential Tenancies Act, 2006***  
and ***The Saskatchewan Human Rights Code***

A Pro Bono Students Canada Project prepared by  
Bridget Morrison and Taylor Schlamp for the Saskatoon Council on Aging

***Disclaimer: This pamphlet only provides information about your rental rights, It is not a substitute for legal advice***

# ***Independent Living***

In this pamphlet, the term "Independent Living" refers to rental apartments and condominiums, which includes most senior residences in which older adults live independently, as well as assisted living. This is a contractual relationship between the landlord and tenant governed by residential leases, which are largely regulated by statute law such as the *Residential Tenancies Act*.

The terms "senior residence" and "assisted living" are both arbitrary (not legal) terms. This means that some landlords who market rentals as "senior residences" or "assisted living" may offer "extras" such as laundry services or grocery opportunities. However, these "extras" are not required and have no governing guidelines. Additionally, they almost always result in higher rent. Extra services that are provided, as well as the costs of these services, should both be outlined in your lease agreement. While residing in most Independent Living rentals, you can still bring in outside community services such as personal caregivers and housekeeping, and other community supports.

## ***Other Housing Options***

### **Rental Housing for Seniors through the Saskatchewan Housing Authority:**

The Seniors Housing Program provides rental housing to individuals and couples who are 55 years of age or older with lower incomes. Priority is given to applicants with the greatest need based on income, current shelter costs, current housing conditions, health problems aggravated by current housing conditions, and/or current housing unsuitable because of a disability. The Saskatchewan Housing Authority does NOT provide assisted living services or emergency housing, therefore, tenants must be able to live independently with/without supports from family, community or government agencies.

### **Personal Care Homes:**

Personal Care Homes are licensed private businesses. Staff are available all day and during the night and provide assistance with daily living to the residents.

### **Special Care Homes/Long-Term Care:**

Special Care Homes/Long-Term Care are publicly funded homes for people whose care needs cannot be met in the community. The cost is provincially determined with the monthly rate based on the client's monthly care income. To get into a Special Care Home/Long Term Care, your care needs must be assessed through Client/Patient Access Services by the Saskatchewan Health Authority (SHA).

# ***The Residential Tenancies Act, 2006***

## **Independent Living Lease and Rental Agreements**

Residential leases, such as those used in Independent Living, are largely regulated by statute law. In Saskatchewan, ***The Residential Tenancies Act, 2006*** applies to residential leases and imposes the terms in lease agreements. As each rental situation is unique, this pamphlet contains only general guidelines. Rental dispute solutions will vary depending on the specific lease agreement, so the lease should always be referred back to when questions arise regarding your rental situation.

## **Definitions**

*All definitions below and information on the following page comes from The Residential Tenancies Act. The abbreviation "s." refers to which specific section of the Act the information comes from.*

### **Landlord:**

S.2(f) says that "landlord" means a person who grants to another person the exclusive right of tenancy to a rental unit.

### **Tenancy:**

S.2(q) says "tenancy" means a tenant's right to possession of a rental unit under a tenancy agreement.

### **Tenancy Agreement:**

S.2(r) defines "tenancy agreement" as an agreement, whether written or oral, express or implied (inferred from the circumstances): (i) that is between a landlord and tenant respecting possession of a rental unit and use of any common areas and services and facilities that are the subject of the agreement; and (ii) that either the tenant or another person on the tenant's behalf agrees to pay rent to possess the rental unit and to use any common areas and services and facilities that are the subject of the agreement.

### **Tenant:**

S.2(s) says that "tenant" includes (i) the estate of a deceased tenant; and (ii) when the context requires, a former or prospective tenant.

# ***The Residential Tenancies Act, 2006*** ***(continued)***

***The Residential Tenancies Act, 2006*** only applies to individuals in Independent Living. ***The Residential Tenancies Act, 2006*** does not include those living in the three other housing options listed on page 2: Personal Care Homes and Special Care Homes/Long-Term Care, and does not apply to life-long leases or a lease for a term 20 years or more.

## **Obligations of Landlords and Tenants:**

The relationship between a landlord and a tenant is generally considered contractual and is governed by the lease agreement. *The Residential Tenancies Act, 2006*, sets out certain rights and conditions that are part of every rental agreement. An example of one of the rights and conditions is that a landlord must keep all services and facilities included in the rent in a good and functional state of repair.

S.7(1) states that the rights, obligations, and prohibitions established by this Act are enforceable between a landlord and tenant under a tenancy agreement.

## **When are provisions in the tenancy agreement not enforceable?**

S.7(2) says that a tenancy agreement, or part of a tenancy agreement, is not enforceable if it is inconsistent with this Act or the regulations, it is unconscionable (unfair or oppressive), or it does not clearly communicate the rights and obligations under it.

- If the landlord or tenant does not follow the Act they may have to pay the other party for damages or losses that result.
- A landlord and tenant cannot agree that any part of the Act will not apply to them.



# ***The Saskatchewan Human Rights Code***

**The Saskatchewan Human Rights Code is used to promote and protect rights and equality in Saskatchewan. This protects individuals in a landlord/tenant agreement from discrimination in rental properties and contracts based on age.**

## **Prohibited Ground:**

“Prohibited ground” means one of the following grounds of discrimination: (a) religion; (b) creed; (c) marital status; (d) family status; (e) sex; (f) sexual orientation; (g) disability; (h) age; (i) colour; (j) ancestry; (k) nationality; (l) place of origin; (m) race or perceived race; (n) receipt of public assistance; (o) gender identity.

## **Discrimination in rental property prohibited:**

S.11(1) says that no person, directly or indirectly, can discriminate on the basis of a prohibited ground by: (a) denying a person or class of persons occupancy of any commercial unit or any housing accommodation; or (b) discriminating against a person or class of persons with respect to any agreement term or condition of occupancy of any commercial unit or any housing accommodation.

Nothing in subsection (1) prohibits the renting or leasing, the offering for rent or lease, or the advertising for rent or lease of any housing accommodation for occupancy exclusively by persons who are 55 years of age or more.

## **Discrimination in contracts prohibited:**

S.15(1) says that no person shall, in making available to any person a contract that is offered to the public: (a) discriminate against any person or class of persons on the basis of a prohibited ground; or (b) include a term or condition in the contract that discriminates against a person or class of persons on the basis of a prohibited ground.

# FAQ's

## ***What can I do if I get in a dispute with my landlord?***

Problems can arise between landlords and tenants. If you (the tenant) are unable to resolve a dispute between the landlord and yourself, either you or the landlord can ask the Office of Residential Tenancies (ORT) to solve the problem. The ORT can deal with any type of dispute about rental agreements. Specific protocols must be followed to make an ORT claim. To find further information on the ORT and its processes, consult the Resources page.

## ***Are there any legal avenues to get your damage deposit back when you move out of seniors' housing and the facility refuses to refund it?***

The *Residential Tenancies Act* allows landlords to charge a security deposit equal to one month's rent. The general guidelines for security or damage deposits in Saskatchewan, is that the landlord has seven business days (this does not include weekends or holidays) after a tenant has moved out to give the security deposit back to the tenant, or to give the tenant written notice of the landlord's claim on the

tenant's security deposit. If you believe you have met all the requirements to get your security/damage deposit back when you move out and the landlord refuses to refund it, the tenant or landlord may apply to the ORT in order to resolve the dispute.

## ***Is my landlord required to provide clarity on what services are provided in the monthly fees at my seniors housing complex? I have asked for written examples but important details have only been explained orally.***

According to the *Residential Tenancies Act*, the written tenancy agreement must contain "a provision setting out those services and facilities that are included in the rent". In addition, s.19(2) specifies that a copy of the written agreement must be given to the tenant within 20 days of signing the agreement, and s.20 specifies that for a fixed term tenancy of longer than 3 months the agreement must be in writing.

This means the services should be clearly laid out in the written lease agreement. If this is not being done, you can ask the ORT to make an order to solve the problem.



# FAQ's

(continued)

***Can my landlord change my tenancy agreement without telling me?***

There are very few circumstances where a landlord can change a provision of your tenancy agreement without giving you notice. A tenancy agreement can be amended to add, remove or change a provision, other than a standard condition, *only if* both you (the tenant) and the landlord agree to the amendment. An exception to this is a rent increase. A landlord may increase rent if a notice is served to you, however, this notice must be given three months before the rent increase.

***I am now living alone in a large suite in a seniors' housing complex (I moved in as part of a couple) and management has suggested several times that I move to a smaller suite. I like my present suite better and want to stay where I am. Do I have to accept their suggestions and move to a smaller suite?***

Unless you (the tenant) has violated the lease agreement or jeopardized yourself, other tenants, the landlord, or the property the landlord shouldn't be able to successfully apply for possession of the rental unit until the lease term comes to an

end. However, under s. 22.2(1) If the unit is part of a housing program, the landlord could ask you to move to a smaller unit more suitable for a singular tenant living in the housing project.

***Are there any legal recourses to get a landlord to add signage to a building, such as elevator signage to prevent residents from mistakenly ending up on the wrong floor?***

Landlords have to provide tenants with a clean and safe rental property and to repair and maintain the property. This means that they need to fix problems that come up and do their best to prevent problems, such as in this scenario, better signage on the elevators. If the landlord does not fix the problem, a tenant may apply to the ORT for the landlord to fix the problem.



# Resources

The sources below are examples of organizations to reach out to for more information and advice on your particular legal situation.

## **Saskatoon Council on Aging**

[www.scoa.ca/ehub/housing.html](http://www.scoa.ca/ehub/housing.html)

The Saskatoon Council on Aging (SCOA) nonprofit organization dedicated to promoting positive aging for all members of the community. They provide resources regarding housing. Some of the information that can be found at the previous link includes:

SHA Enriched Housing Directory - a guide to housing and services in Saskatoon.

Saskatoon Housing Authority - provides housing programs for lower income seniors.

Saskatchewan Housing Corporation - provides a variety of programs, including social and affordable housing, home renovations/adaptations, and supports to independent living for seniors.

## **The Office of Residential Tenancies**

[www.saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/office-of-residential-tenancies](http://www.saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/office-of-residential-tenancies)

The Office of Residential Tenancies is an agency independent from the government that provides information about the rights and responsibilities of landlords and tenants. Either landlords or tenants can ask the ORT for information, and both have the right to ask this agency to settle disputes.

## **PLEA**

[www.plea.org](http://www.plea.org)

The Public Legal Education Association of Saskatchewan (PLEA) is a non-profit, non-government organization providing free legal information, including information on housing and rentals.



# Sources

***Merriam-Webster's Legal Dictionary***

[www.merriam-webster.com](http://www.merriam-webster.com)

***Saskatoon Council on Aging***

[www.scoa.ca](http://www.scoa.ca)

***CanLii***

[www.canlii.org](http://www.canlii.org)

***Office of Residential Tenancies***

[www.saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/office-of-residential-tenancies](http://www.saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/office-of-residential-tenancies)

***PLEA Website***

[www.plea.org](http://www.plea.org)

***The Saskatchewan Human Rights Code, 2018***

[www.saskatchewanhumanrights.ca](http://www.saskatchewanhumanrights.ca)

