

## Tenants, Sub-Tenants, Boarders and Lodgers

### The legislation

The *Residential Tenancies Act 1999* applies to tenants and sub-tenants but does not apply to boarders and lodgers except under certain circumstances.

### What's the difference? Am I a tenant, sub-tenant, boarder or lodger?

#### Tenants

A tenant has a right to exclusive possession of an entire rental property, and the landlord must not enter that property except under certain circumstances specified in the *Residential Tenancies Act 1999* (the Act). In other words, the tenant is entitled to quiet enjoyment of the premises without interruption by the landlord.

Example: Tom Brown owns a property and rents it exclusively to John Smith. Tom Brown is the landlord and John Smith is the tenant.

#### Sub Tenants

A sub-tenant is someone who rents part or all of a property from another person (head tenant) who has rented the property directly from the landlord. The head tenant is responsible to the landlord for the premises. The head tenant also becomes the 'landlord' to the sub tenant under the Act and has all the same responsibilities of a landlord with respect to the sub tenant.

Example: John Smith gets permission from Tom Brown to rent out the spare rooms. John Smith rents a room to Sarah Little. Sarah Little is a sub-tenant in this situation and John Smith becomes her landlord but is also considered the head tenant.

#### Lodgers

A lodger is someone who resides in accommodation such as a private dwelling, boarding house, hostel, hotel or motel with less than two others (not including the landlord, their family members or caretaker) and does not receive meals from their landlord. The Act does not apply to lodgers in this situation.

Example: Terrance Watts rents a room from a home owner on a week to week basis. He does not receive meals. The home owner and his son also reside in the property. Terrence Watts is a lodger in this situation and the Act does not apply.

## **Boarders**

A boarder is someone who resides in accommodation such as a private dwelling, boarding house, hostel, hotel or motel with less than two others (not including the landlord, their family members or caretaker) and *does* receive meals from their landlord. The Act does not apply boarders in this situation.

Example: Craig Harris rents a room from a home owner on a week to week basis. He receives meals from the home owner. The home owner and his son also reside in the property. Craig Harris is a boarder in this situation and the Act does not apply.

## **When does the *Residential Tenancies Act 1999* apply to boarders and lodgers?**

If a boarder or lodger resides in a premises continually for more than a week and there is at least two other persons (other than the landlord, their family members and caretaker) who also board or lodge at the same premises for more than a week at the same time, then all the boarders or lodgers may be considered tenants under the Act in this situation and have the same rights and responsibilities as a tenant who has entered into a tenancy agreement.

Example: Terrance Watts and Craig Harris are residing in the same premises and rent rooms from the home owner and his son. Another lodger, Chrissy Jones moved in to the same premises more than a week ago and is intending on staying for some time. All three boarders / lodgers have exclusive possession of their own room.

All three boarders/lodgers may now be considered 'tenants' and have the same rights and responsibilities as other tenants who have entered into a tenancy agreement. The Act now applies to their situation.