



Joint Tenancy

IMPORTANT

The contents of this leaflet are for information purposes only and do not replace the legislation.

The staff at the Régie du logement can inform you of the recourse available to you for contesting a decision, the applicable procedure before the Régie and the deadlines involved. However, our staff cannot inform you of the procedures applicable before the other tribunals. If you need assistance, contact an attorney or notary.

Warning

This leaflet is intended for persons wishing to become joint tenants or are presently living in a joint tenancy. However, the subject of joint tenancy is quite complex and is largely subject to interpretation. A multitude of questions arise for which the Régie has no absolute answers. Nevertheless, an opinion may be suggested, although there have been no definite rulings by the court as of yet.

All the examples given in this document concern two joint tenants. Make the appropriate adjustments if there are more than two.

Advantages and Inconveniences

For the tenant

Signing a joint tenancy lease, that is with one or more persons (joint tenants) has its advantages, namely, financial : sharing the cost of the rent and other expenses such as heating, electricity, telephone, etc.

In addition, joint tenancy provides an opportunity to share a larger dwelling, household tasks, etc.

However, one of the joint tenants may decide to leave the dwelling at the end of the lease ; the remaining tenant will then have to assume full responsibility for the lease if he wishes to remain, namely, the payment of the rent.

The joint tenants enter a **legal relationship between themselves and with their common landlord**. They must be prepared to face potential difficulties if one of them does not fulfill his obligations.

For the landlord

The advantage for the landlord is having two persons responsible for paying the rent rather than just one.

Because each joint tenant has an individual right to terminate his part of the lease (as a rule, at the end of the lease), the other joint tenant may wish to continue to occupy the dwelling alone. In this case, the landlord loses a guarantee since only the person remaining is responsible for the lease.

A Joint Tenant is Not Just an Occupant

A **joint tenant**, is a tenant with a written or verbal lease who rents the same dwelling with one or more other tenants.

An **occupant**, as the word indicates, occupies the dwelling with one or more other tenants. From a contractual point of view, occupants have no rights nor obligations with respect to **the landlord** because they have no lease. However, if an occupant causes damage to the landlord or his building, he remains responsible given the principle that everyone must behave in ways that do not harm others.

On the other hand, an occupant has rights and obligations toward **the other tenant** of the dwelling. They must then refer to the written or verbal agreement between them.

To avoid difficulties in the interpretation and possible litigation, it is strongly recommended that leases and other agreements be in writing.

Responsibilities of Joint Tenants

Like the sole tenant of a dwelling, joint tenants must respect the obligations of the lease. Joint tenants must :

- pay the rent according to the method stipulated in the lease ;
- act in a reasonable way in using the dwelling ;
- behave in such a way as not to disturb the normal enjoyment of the landlord or other tenants of the building.

Payment of the rent

The landlord has the right to collect the rent in full. If a joint tenant pays his share but the other does not, the landlord who has received partial payment, could apply to the Régie to recover the amount unpaid. Furthermore, when the rent is late more than three weeks, the landlord could apply to cancel the lease and evict the tenants and all other occupants. If the landlord applies to the Régie, without the tenant otherwise being in default, the tenant is entitled to pay the rent within a reasonable time after the demand.

If the rent is paid within a reasonable time, the costs of the demand are borne by the landlord.

A joint tenant wishing to avoid eviction, must pay the defaulting tenant's share. He can file a claim against the tenant who is at fault.

Paying the rent : a shared or mutual responsibility ?

Shared responsibility

Generally the obligation to pay the rent is shared. That is, each joint tenant is responsible for his share. For example, if two joint tenants owe \$600 for one month's rent and the case goes to a hearing, each can be required to pay the landlord \$300.

Solidary responsibility

If the lease contains a clause stipulating solidarity, one of the joint tenants can be sued for the full rent. In the above example in which two joint tenants were responsible, one only could be required to pay the full amount of \$600.

Solidarity must be clearly mentioned. If there is no explicit clause in the lease or a clear agreement between the parties, the joint tenants share responsibilities.

Exceptions may arise in the case of married joint tenants. More information may be given by the Régie if need be.

Other obligations of the lease

If only one joint tenant does not respect his obligations, the landlord can file a claim at the Régie against the defaulting tenant in the same way he would against a sole tenant.

Problems Between Joint Tenants

A joint tenant who is disturbed by another joint tenant's behaviour or who does not respect the agreement between them (ex. he does not pay his share of the rent), has legal recourses against the defaulting joint tenant.

Rent Increase and Other Modifications to the Lease

We have previously seen that each joint tenant has a personal right of occupancy. Each individual can decide whether or not he wishes to renew the lease or accept or refuse an increase in rent or any other modification to the lease. That is why a cautious landlord should send a notice, **separately**, to each joint tenant.

Furthermore, if only one joint tenant refuses an increase in rent or other change to the lease, the landlord will have to file an application at the Régie to have the rent set.

Non-Renewal of the Lease

Even if no notice of rent increase or modification to the lease has been given by the landlord, the joint tenants have the right to act differently. Thus, joint tenant **A** could give a non-renewal notice and joint tenant **B** could wish to continue living in the dwelling.

In such a situation, the lease would be renewed for joint tenant B only. He would thereby assume all the lease responsibilities on his own – particularly paying the rent.

Right to assign the Lease or Sublet

In principle, nothing in the law prevents a joint tenant from assigning or subletting his undivided rights¹ of the lease. Even if the landlord agrees to the assignment or subletting, the fact of living in joint tenancy with someone, somewhat restricts the right of the departing tenant to impose a new tenant usually a stranger, on the remaining tenant.

The joint tenant wishing to assign or sublet his undivided share, must give a copy of the assignment or sublet notice simultaneously to the landlord and the remaining joint tenant.

In one or another situation described above, the remaining tenant has a right to refuse the person proposed as a new joint tenant. If he should refuse, he must prove that he is acting in good faith and not abusing his rights in order to cause harm to the departing tenant.

If the landlord or the remaining joint tenant refuses the proposed person without a valid reason, the departing joint tenant can ask the court to rule on his right to assign or sublet.

Practical Advice

For better protection, joint tenants are advised to sign a written joint tenant agreement dealing with all practical aspects of living together. These could include ownership, use of the furniture, liability insurance, the right to sublet or assign the lease and conditions, enjoyment of the dwelling, exclusive use of certain rooms (e.g. a bedroom) sharing

¹ Having an undivided share or an undivided right means one has rights in an asset in its entirety and that those rights are shared with one or more persons. To sum up, there is no physical division of the asset.

the rent (e.g. : 60 % - 40 %) as well as other expenses such as heating, electricity, telephone and cable.

On the other hand, a joint tenant who acts individually regarding his contractual (legal) relationship with his landlord (ex. gives a notice of non-renewal for his portion of the lease), should immediately inform his joint tenant so that the other tenant will not be taken by surprise following a decision made without his knowledge.

WEB SITE OF THE RÉGIE
<http://www.rdl.gouv.qc.ca>

HOW TO REACH US BY TELEPHONE

From Monday to Friday
Between 8:30 a.m. and 4:30 p.m.

Montréal, Laval and Longueuil areas :
(514) 873-2245 *

Elsewhere in Quebec :
1-800-683-2245 *

*** An automated information service is available around the clock.**

Please have on hand all necessary documents before making your call.

The Régie du logement is answerable to the Minister of Municipal Affairs and Regions.

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