

TENANT'S RECOURSES

What to do in case of illegal eviction?

The tenant may claim damages as well as punitive damages following his definitive departure from the dwelling, whether he agreed to it or not, if his departure is a result of :

- an illegal repossession or one done in view of converting the property in divided co-ownership;
- work done in view of preparing the property for conversion and evicting him.

What to do in case of harassment?

Any person wishing to convert a property to divided co-ownership is prohibited from using harassment and hence restricting the tenant's rights to the peaceful enjoyment of his dwelling.

A tenant victim of harassment may, among other things, according to the circumstances :

- ask for a rent reduction, damages as well as punitive damages;
- complain to the Commission des droits de la personne et des droits de la jeunesse in cases provided for by the Charter;
- file a complaint with the Attorney General who shall decide on the opportunity of penal recourse.

Any person found guilty of harassment is liable to a fine of no less than \$5,800 and up to \$28,975.

For information consult with the Régie du logement.

What to do in case of illegal sale?

At the time of the first sale, the tenant has priority to buy his dwelling : it is called the right of preemption.

But if the landlord has not offered the dwelling to the tenant, the latter has one year from the time he is aware of the sale to ask the Superior Court for its cancellation.

TO RESPECT THE LAW

The Régie may, ex officio or at the request of an interested person, issue an order if a person

- contravenes or is about to contravene the law on conversion;
- acts or is about to act against a decision rendered by the Régie regarding conversion.

This order obliges the person against whom it is rendered to :

- comply with the Régie's decision
- cease or not undertake his operations and to restore the premises to a state of good repair, if necessary.

The refusal to comply with such an order results in a contempt of court punishable by a fine of no less than \$5,000 and no more than \$25,000.

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 Area:
(514)873-BAIL (2245)*

Québec Area:
(418)643-BAIL (2245)*

* An automated information service is available around the clock.

Elsewhere in Québec :
1-800 683-BAIL (2245)

To facilitate your telephone discussion, please have all the relevant documents at hand.

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

DI-081 (03-04)

Divided Co-ownership... and the Tenants

CONVERTING : WHERE AND IN WHAT CASES ?

The converting of a rental property is :

Authorized

- When all the dwellings in a building are occupied by undivided owners (they will have to prove that no tenant has been illegally evicted from his dwelling).
- In all Québec municipalities outside the territory of the Ville de Montréal.

However... these municipalities may adopt by-laws restricting conversion or making it subject to certain conditions.

Prohibited

- If the building belongs to a housing cooperative, a non-profit organization or a municipal housing corporation and was built, acquired, restored or renovated as part of a government housing-assistance program.
- in the territory of the Ville de Montréal.

However... the law grants by a resolution of the council of the borough in which the immovable is situated the right to allow conversion.

In each and every case, converting a rental property to divided co-ownership must be authorized by the Régie du logement.

GREATER PROTECTION FOR TENANTS

Converting to co-ownership does not threaten the right of the tenants to remain in the premises.

They are entitled to remain in their dwelling as long as they wish to do so provided they respect their obligations.

This right is even reinforced since repossession of the dwelling is not possible any more (save rare exceptions).

In regards to illegal repossession, harassment or non-observance of conversion formalities, the law allows for recourses (see last page).

THE STEPS TO CONVERSION *

The conversion of rental property is submitted to strict formalities. To convert his immovable, the landlord must :

1. notify each tenant of the building of his intention, **and this prior to any other action**, and give a copy of this notice to the Régie;
2. obtain from the municipality or from the council of the borough a resolution authorizing him to convert or a certificate of compliance if a by-law provides for such a document;
3. file an application for authorization to convert at the Régie du logement within six months from the date of the notice of intent or of the municipal document, whichever occurs last;
4. register the declaration of co-ownership within one year of the authorization of the Régie;
5. have an expert's report prepared on the state of the immovable and an information circular on the project and the administration of the condominium;
6. before the first sale of the dwelling, offer the tenant to buy his dwelling at the same price and conditions as those agreed with another person.

* When all the dwellings are occupied by undivided co-owners, they need only file an application for authorization to convert at the Régie and register the declaration of co-ownership within one year of the authorization of the Régie.

GLOSSARY

Co-ownership means that a property is jointly owned by two or more people.

Divided co-ownership means that some portions of the property are exclusively owned by individual owners, and other parts of it are their common property.

Undivided co-ownership means that the property as a whole belongs jointly to all the owners and that no part of it is exclusively owned by any one of them.

For the purposes of conversion, a rental property is one which comprises or has comprised, in the ten years preceding the application for authorization to convert at the Régie, a dwelling rented, offered for rent or vacant after having been rented.

Régie
du logement
Québec



CONVERTING A RESIDENTIAL RENTAL BUILDING TO DIVIDED CO-OWNERSHIP*:

The Basics, at a Glance.

Steps	Landlords	Tenants	Purchasers
From the Notice of Intent	<p>The landlord must make sure conversion is allowed by the municipality and</p> <ul style="list-style-type: none"> • Prior to any action, send a Notice of Intent to Convert to each tenant. • The Notice must comply with the model provided in the law (free copies available from the Régie du logement). • Send a copy of the Notice to the Régie du logement. • Notify the tenant at least 24 hours prior to visits by prospective purchasers or to any preparatory action for the conversion. • The landlord can carry out work in a dwelling he occupies. • No authorization from the Régie is required for maintenance work and urgent and necessary repairs for the preservation of the immovable. • The landlord regains his right to repossess a dwelling and carry out work there if he informs the tenant, in writing, that he no longer intends to convert or if the conversion does not take place within the time frame prescribed by law. 	<ul style="list-style-type: none"> • Once the Notice of Intent has been sent, the landlord cannot repossess the dwelling for himself or his relatives except if there is a transfer of the lease after the notice or in the case of a new tenant since the authorization to convert has been granted by the Régie. • Whether he agreed or not to leave the dwelling, the tenant may ask for damages as well as punitive damages following an illegal repossession or one done in view of converting the property into divided co-ownership and evicting him. • From the notice and until such time as a majority of voting rights in the general meeting of co-owners are held by occupant co-owners, all work in the building (save exceptions) must be authorized by the Régie which considers its immediate usefulness for the tenant and may impose just and reasonable conditions. • If the work is authorized and the tenant must temporarily vacate his dwelling, the landlord will pay him on the date he has to vacate a compensation determined by the Régie. 	<ul style="list-style-type: none"> • The Notice of Intent must be given prior to the visit of a prospective purchaser.
Application to the Municipality	<ul style="list-style-type: none"> • In Montréal : <ul style="list-style-type: none"> - Apply for authorization from the council of the borough and obtain it. • In other municipalities, if needed: <ul style="list-style-type: none"> - Obtain certificate of conformity or authorization, according to by-law. 	<ul style="list-style-type: none"> • In municipalities where the council (or a committee) rules on applications for authorization or exception, any interested party (e.g., tenants, prospective purchasers) may be heard by the council (or committee). 	
Application for Authorization to the Régie du logement	<ul style="list-style-type: none"> • The application for authorization to convert must be made to the Régie within six months of the Notice of Intent or receipt of the municipal document, whichever occurs last. • The municipal resolution or certificate as well as a list of the names and addresses of the tenants of the building must be joined to the application. • Application costs must be paid. • A copy of the application must be served to all tenants. • At the hearing, an up-to-date list of tenants must be provided. 	<p>The Régie must refuse to authorize the conversion if:</p> <ul style="list-style-type: none"> - the property has already undergone work in view of preparing it for conversion and evicting a tenant; - possession of a dwelling has already been retaken illegally or in view of converting the property into divided co-ownership; - in the five years preceding his application, the owner has been found guilty of harassment against a tenant of the building, save for pardon. <p>In such cases, no new application may be produced until three years have elapsed from the date of refusal.</p> <ul style="list-style-type: none"> • When it authorizes the conversion, the Régie identifies the tenants protected from the repossession. 	
Registration of the Declaration of Co-ownership	<ul style="list-style-type: none"> • The authorization for conversion must accompany the declaration of co-ownership. • The landlord must proceed with the publication of the declaration of co-ownership (at the Bureau de la publicité des droits) within one year of authorization by the Régie, otherwise the authorization is no longer valid. The Régie may extend the period if reasonable cause is shown (the request must be made before the year is up). 	<ul style="list-style-type: none"> • The Régie or any interested party may apply to Superior Court to have the registration of a declaration of co-ownership cancelled if the Régie did not authorize it and to have any other contract (of sale, etc.) signed thereafter annulled. 	<ul style="list-style-type: none"> • The purchaser of a converted dwelling should ensure the Régie's authorization to convert was attached to the declaration of co-ownership when it was registered.
Before the First Sale of Each Dwelling			
Expert's Report and Information Circular	<p>The landlord must give the prospective purchaser</p> <ul style="list-style-type: none"> • an expert's report on the condition of the building. • an information circular on the project and administration of the co-owned building, with the decision of the Régie and a summary of the declaration of co-ownership or a draft of the summary. 		<ul style="list-style-type: none"> • If these documents (or the deed of sale) contain false, misleading or incomplete information on a substantial element, the purchaser has three years in which to claim a reduction of his obligations (price, etc.) before the courts if he suffers a prejudice.
Offer to Sell	<ul style="list-style-type: none"> • The first sale of a dwelling cannot be made to any person other than the tenant unless it was first proposed to the tenant at the same price and on the same terms and conditions as those agreed with the other person. • The offer to sell must comply with the model provided by law (free copies available from the Régie du logement) and must include the expert's report and the information circular. 	<ul style="list-style-type: none"> • The tenant has priority of purchase on his dwelling. • If the sale is made in violation of the lessee's right of pre-emption, the tenant may, within one year from the time he is aware of the sale, apply to the Superior Court for its cancellation. • The tenant has one month in which to accept or refuse the offer to sell. If he does not answer, the tenant is deemed to have refused the offer to sell. • If the deed of sale is not signed within two months after the acceptance of the offer or within any longer period agreed upon, the landlord may sell the dwelling to another person, unless the deed of sale was not signed for a reason beyond his control. 	<ul style="list-style-type: none"> • The purchaser, like the selling landlord, cannot repossess the converted dwelling while it is occupied by a tenant who has been identified by the Régie.

* When all dwellings are occupied by undivided co-owners, they only need to file an application for authorization to convert at the Régie and publish the declaration of co-ownership within one year of the authorization of the Régie.