



Repossessing a Dwelling

Under Québec law, tenants who comply with all of the conditions of their lease can stay in their dwelling as long as they wish. This is known as **the right to maintain occupancy**.

There are, however, exceptions to this rule, and **repossessing a dwelling** is one of them.

Who can repossess a dwelling?

A landlord who is the **owner of an immovable** can retake possession of a dwelling in the immovable.

A co-owner of an immovable held in undivided co-ownership¹ can also repossess a dwelling on the condition there is only one other co-owner who is his or her spouse.²

In the event the immovable is sold, it is up to the **new owner** to take steps toward repossession, once the sale of the immovable has been concluded, not as of the signing of a promise to purchase.

For what reasons can an owner repossess a dwelling?

- To live there himself or herself
- To have his or her father, mother, son or daughter live there
- To have live there any other relative or person connected by marriage or a civil union,³ of whom the owner is the main material or moral support
- To have live there a former spouse of whom the owner is still the main material or moral support following their separation

¹ In the other cases, repossession of a dwelling by the owner of an immovable held in co-ownership is impossible, barring the two exceptions mentioned at the end of this leaflet, under "Immovable held in undivided co-ownership".

² Spouses are people bound by marriage or a civil union, and de facto spouses.

³ Such a person is a relative of the spouse (by marriage or civil union) of the owner—for example, the owner's mother-in-law, sister-in-law or son-in-law.

from bed and board or the dissolution of their civil union⁴.

Compulsory notice

The owner must send the tenant a written notice informing the tenant of his or her intention to retake possession of the dwelling. The notice must include the information below:

- the date fixed for repossession (generally the end of the lease)
- the family name and given name of the person who is to live in the dwelling
- the degree of relationship or the bond between the owner and the above person (son, mother, etc.)

Compulsory notification deadlines

The notice of repossession of a dwelling must be remitted to the tenant by **the following deadlines**:⁵

Stages in the repossession of a dwelling and notification deadlines		
Lease of more than 6 months		
STAGE 1: Notice from the owner	STAGE 2: Reply from the tenant	STAGE 3: Application to the Régie du logement by the owner
6 months before the end of the lease	Within one month after receipt of the owner's notice. If the tenant does not reply, he or she is deemed to have refused to vacate the dwelling.	Within one month after the tenant's refusal, or of the expiry of the deadline for the tenant's reply

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.

Lease of six months or less		
STAGE 1: Notice from the owner	STAGE 2: Reply from the tenant	STAGE 3: Application to the Régie du logement by the owner
1 month before the end of the lease	Within one month after receipt of the owner's notice. If the tenant does not reply, he or she is deemed to have refused to vacate the dwelling.	Within one month after the tenant's refusal, or of the expiry of the deadline for the tenant's reply

Lease with an indeterminate term		
STAGE 1: Notice from the owner	STAGE 2: Reply from the tenant	STAGE 3: Application to the Régie du logement by the owner
6 months before the intended date of repossession	Within one month after receipt of the owner's notice. If the tenant does not reply, he or she is deemed to have refused to vacate the dwelling.	Within one month after the tenant's refusal, or of the expiry of the deadline for the tenant's reply

The tenant's reply

After receiving the notice of repossession, the tenant has one month in which to reply to it. The tenant can agree or refuse to vacate the dwelling.

It is preferable to reply to the notice in writing.

If the tenant does not reply to the owner's notice of repossession within one month, the tenant is **deemed to have refused to vacate** the dwelling, and it is up to the owner to apply to the tribunal for authorization to retake possession of the dwelling. If the owner does not do so, the tenant is entitled to remain in the dwelling.

⁴ This does not apply to former de facto spouses.

⁵ The owner must use a means by which the date on which notification was made to, and received by, the tenant can be proven to the tribunal. Such means include by bailiff, by registered mail or in person, with a witness.

Deadline for filing an application for repossession with the Régie du logement

- If the tenant **gives written notification of his or her refusal**, the owner's application must be filed with the Régie du logement **within one month** after receipt of the refusal.
- If the tenant **does not reply**, the application must be filed within **one month** after the expiry of the deadline for the tenant's reply.

The hearing and the evidence

The owner has the burden of proving, before the tribunal, that he or she truly intends to repossess the dwelling for the purpose mentioned in the notice and not as a pretext for other purposes.

If the owner is not retaking possession of the dwelling to live in it personally, the person the owner wants to have live in the dwelling is **generally required to testify** at the hearing.

The decision of the tribunal

If the tribunal authorizes repossession of the dwelling, it can impose conditions it considers just and reasonable, including payment of an indemnity equivalent to the tenant's moving expenses. At the tenant's request, the tribunal can also allow repossession to take place at a later date.

If the tribunal refuses the owner's application for repossession of the dwelling, the owner has one month, as of the final decision, to apply for the fixing of the rent.

What happens if ...

... another of the owner's dwellings becomes available?

Following a notice of repossession, another of the owner's dwellings may become vacant or available for lease **on the date fixed for the repossession**.

If the dwelling is of the same type, at an equivalent rent and situated in the same neighbourhood as the one sought by the owner, **the latter must occupy that dwelling rather than continue the repossession process**, unless otherwise agreed with the tenant.

... the owner no longer wants to repossess the dwelling?

If the dwelling is not repossessed on the date fixed, and if the tenant continues to occupy it with the owner's consent, the lease is automatically renewed. The owner then has one month after the date fixed for repossession to apply to the Régie to fix the rent.

... the owner wants to lease the dwelling after having retaken possession of it?

If the owner wants to lease the dwelling again or use it for a purpose other than that which led to the repossession, **regardless of how many months or years later**, the owner must apply for authorization from the tribunal, which, if it grants authorization, will then fix the new rent.

... repossession seems to have been in bad faith?

If, after vacating the dwelling, the tenant notes that it is not being used for the purpose set forth in the owner's application and the **tenant can prove** that the owner proceeded with repossession in bad faith, the tenant can claim damages from the owner for the material and moral prejudice suffered, as well as punitive damages.

Repossession of a dwelling and divided co-ownership (condominium)

An owner who intends to convert his or her immovable to divided co-ownership—commonly called a "condominium"—with a view to subsequently selling the dwellings to third parties must, **before taking any steps**, give each lessee a **notice of intent** to convert the immovable.

Once the **notice of intent** has been given, **neither** the current owner **nor** a subsequent purchaser of the dwelling after it has been converted to co-ownership **may repossess it, barring rare exceptions. Thus, any tenant or assignee** in place at the time the notice of intent is sent, or any **new tenant** whose lease begins prior to the date of the decision by the Régie du logement authorizing the conversion, has the **right to remain on the premises as long as he or she wishes**, provided he or she complies with the conditions of the lease.

Immovable held in undivided co-ownership

An immovable is said to be in "undivided co-ownership" if it belongs to two or more people who **each** own an undivided (undefined) share of the **whole** immovable.

For example, Claire, Saïda and Carol-Ann each own an undivided 1/3 share of an immovable, but none of them has her own apartment. As indicated at the beginning of this leaflet, such a co-owner cannot repossess a dwelling unless he or she is a co-owner with only one other person who is his or her spouse,⁶ or if he or she has acquired rights (see below).

⁶ Spouses are people bound by marriage or a civil union, and de facto spouses.

Immovable acquired before 1988: acquired rights

- (A) If you have undivided co-ownership of an **immovable with no more than four dwellings**, you may repossess the dwelling, where:
- your title of ownership was registered before **November 10, 1987**;
 - on **November 10, 1987**, you were signatory to a promise to purchase accompanied by a down payment, provided your title of co-ownership was registered before **July 15, 1988**.
- (B) **If you have undivided co-ownership of an immovable with five or more dwellings, you may repossess the dwelling, where:**
- your title of ownership was registered before **June 11, 1981**;
 - on **June 11, 1981**, you were signatory to a promise to purchase accompanied by a down payment, provided your title of co-ownership was registered before **December 16, 1981**.

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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