

SMOKING UPDATE

OCTOBER 2017



GEF HISTORY – SMOKING IN BUILDINGS

Pre - 2008

- **Lease Rules & Regulations allowed residents to smoke in their suites**

2008

- **New tenant leases were non-smoking and grandfathered existing tenants**

2014

- **Revised all leases for smoking only in designated smoking areas outdoors**

GEF HISTORY – SMOKING IN BUILDINGS

2016

- Took first tenant to RTDRS to challenge change in Rules & Regs

2016

- RTDRS ruled in favor of tenant that Landlord could not stop from smoking

2017

- Court of Queen's Bench ruled in GEF's favor (2017 ABQB 430) we could legally enforce Rule to change smoking rule

COURT OF QUEEN'S BENCH RULING

Under the Court ruling in Greater Edmonton Foundation v Hetland, 2017 ABQB 430, Justice Topolniski found that GEF can properly change the Rules found in Schedule "A" of the Lease. She agreed that even if Ms. Hetland had been grandfathered in, GEF had still reserved to itself the ability to prohibit smoking. This decision is precedential and will support GEF's ability to amend its Rules in this manner. While her ruling did not provide conclusion on whether her continued smoking constitutes substantial breach of the Lease or of section 21 of the RTA, she did rule that we could bring her ruling on allowable changes to the Rules and Regulations back to RTDRS for ruling of her eviction. GEF is in the process of reviewing best action moving forward.

MANAGING SMOKING CONCERNS (NO SMOKING POLICY)

Non-Compliance	Damage to Units OR Unsafe Smoking
<ul style="list-style-type: none">• <u>First offense</u> – verbal discussion and document• <u>Second Offense</u> – written warning letter advising further non-compliance may result in a 14 day Notice to Vacate and document• <u>Third Offense</u> - final warning and option given to transfer to a smoking building and document• <u>Fourth Offense</u> – 14 day eviction	<ul style="list-style-type: none">• <u>First Offense</u> – written warning letter and document• For significant damage, the Tenant may be given a 14-day or 24-hour Notice to Vacate.• <u>Second Offense</u> – final warning and option given to transfer to a smoking building and document• <u>Third Offense</u> – 14 day eviction

TRANSITIONING TO NO SMOKING

- Revise your Rules & Regs to include no smoking policy
- Distribute copy of new Rules & Regs
 - Best practice is to have them sign a copy, but GEF was only required to document that we distributed to each tenant.
- Provide your tenants notice of the change with resources to mitigate risks
- Use every opportunity to document smoking incidents to help build your case
- Review with your own lawyer

QUESTIONS