



TRAINING TIP OF THE WEEK

SPECIAL FIXTURES

May the seller remove the Nest thermostat when moving out?

The short answer is most likely – NO...unless specifically excluded in section 1.3 of the REPC.

This brings up the question of personal property vs fixtures. Personal property is not included in the sale unless noted in section 1.1 or 1.2 of the REPC as an included item. Fixtures, on the other hand, are included in the sale because a fixture has become part of the real property being sold.

Without getting too deep into fixture law, a Nest style thermostat that is wired to the home and screwed into or affixed to the wall in some fashion is most likely considered a fixture. If something is a fixture, then it is considered part of the real property and should not be removed by a seller when selling a home.

The exception would be if the seller specifically negotiated in the REPC to remove the Nest thermostat (or a similar product - i.e., Ring doorbell). Then it could be removed because the parties agreed to it.

The same rationale can be applied to any item that is affixed or not affixed to the property. It's either a fixture or personal property and either included or not included.



For more on Personal Property vs. Fixtures, check out a February 2019 tip [HERE](#) or in our Training Tip library.

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