

March 30, 2020

Residential Tenancy Branch (RTB) issues Orders and Information

This information was issued by the RTB about 3:00 pm March 30. I haven't had time to go through it in detail, however, there are some very important changes. I'll try to compress 13 pages into two!

Ending tenancies and Orders of Possession

- A tenant may not be given a Notice to End Tenancy for any reason, including unpaid rent, for cause, renovations, or for landlord/purchaser occupancy.
- If a Notice to End tenancy was served prior to March 30, it is in effect and an order of possession may be issued.
- A landlord may be granted an early order of possession if
 - the rental unit has become uninhabitable,
 - the tenancy agreement has been frustrated, or
 - the rental unit has been ordered closed by a government authority, including the Provincial Health Officer or under the *Emergency Program Act*.
- An order of possession cannot be filed in the Supreme Court (application for a writ of possession), unless the order is because the unit has become uninhabitable or the tenancy agreement has been frustrated.

Rent Increases

- No rent increase can take effect if the Notice was issued to be effective April 1, 2020 or later.
- Exception; An additional rent increase for additional occupants is permitted, provided the requirement and amount are included in the tenancy agreement.

Restricted Tenant Access

- A landlord can restrict tenants or their guests' access to common areas if needed to:
 - protect health, safety, or welfare of the landlord, occupants, and guests;
 - comply with an order issued by a government authority, including the Provincial Health Officer or under the *Emergency Program Act*;
 - follow guidelines of the BC Centre for Disease Control or the federal Public Health Agency.

Landlord Entry to Rental Units

- A Notice of Entry is invalid, including any notices issued prior to March 30 for a date after March 30.
- A landlord may enter a rental unit if there is an emergency related to COVID-19 AND entry is necessary to protect health, safety, or welfare of the landlord, occupants, guests, or the public. No 24 hours' notice is required

Note: Because this section is silent on whether a landlord can enter with the tenant's agreement, it could be argued that banning entry means even if the tenant consents. (Good advice in any event!)

Dispute Resolution

- A landlord or tenant can file for a hearing if the dispute relates to either party's rights or responsibilities outlined above.
- In a related RTB Practice Directive, arbitrators are either directed or encouraged to be flexible in enforcing timelines for applications, service of Notices, service of evidence, deemed service, extension requests, attendance and adjournments.

Document service

- Personal service of documents is prohibited.
- Documents may be served by email and will be considered received 3 days later if:
 - the recipient acknowledges receipt, or
 - the recipient responds without identifying an issue with the transmission of viewing of the document or with their understanding of it, or
 - the document is sent to an email address that both parties have routinely used to communicate about tenancy matters.
- Canada Post will not deliver registered mail to a person's home or business.

Go to the RTB website (gov.bc.ca/landlordtenant) to view these documents:

- Emergency Program Act Ministerial Order (6 pages)
- RTB COVID-19 Practice Directive (6 pages)
- RTB Director's Order allowing service by email