

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF PUBLIC SAFETY AND
SOLICITOR GENERAL

Emergency Program Act

Ministerial Order No. M195

WHEREAS a declaration of a state of emergency throughout the whole of the Province of British Columbia was declared on March 18, 2020 because of the COVID-19 pandemic;

AND WHEREAS many tenants have been impacted by lost income and economic uncertainty due to requirements for social distancing, self-isolation and quarantine resulting from the COVID-19 pandemic;

AND WHEREAS federal and provincial aid relating to the COVID-19 pandemic may be delayed in reaching tenants;

AND WHEREAS the threat of the COVID-19 pandemic to the health, safety or welfare of people has resulted in recommendations or requirements to limit in-person gatherings;

AND WHEREAS section 10 (1) of the *Emergency Program Act* provides that I may do all acts and implement all procedures that I consider necessary to prevent, respond to or alleviate the effects of any emergency or disaster;

I, Mike Farnworth, Minister of Public Safety and Solicitor General, order that

- (a) the Residential Tenancy (COVID-19) Order made by MO 89/2020 is repealed, and
- (b) the Residential Tenancy (COVID-19) Order No. 2 is made.

June 24, 2020

Date



Minister of Public Safety and Solicitor General

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Emergency Program Act*, R.S.B.C. 1996, c. 111, s. 10

Other: MO 73/2020; MO 89/2020; OIC 351/2020

RESIDENTIAL TENANCY (COVID-19) ORDER NO. 2

PART 1 – GENERAL

Definitions and interpretation

- 1 (1) In this order:
“**affected rent**” means
 - (a) rent that becomes due to be paid by a tenant in accordance with a tenancy agreement during the emergency period, and
 - (b) utility charges that become due to be paid by a tenant during the emergency period, if a tenancy agreement requires the tenant to pay utility charges to the landlord;“**emergency period**” means the period that starts March 18, 2020 and ends on the date on which the last extension of the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the *Emergency Program Act* expires or is cancelled.
 - (2) In the definition of “affected rent” in subsection (1), “landlord”, “rent”, “tenancy agreement” and “tenant” have the same meaning as the following, as applicable:
 - (a) in the case of a reference to “affected rent” in Part 2 of this order, section 1 [definitions] of the *Residential Tenancy Act*;
 - (b) in the case of a reference to “affected rent” in Part 3 of this order, section 1 [definitions] of the *Manufactured Home Park Tenancy Act*.
 - (3) The definitions established in section 1 of the *Residential Tenancy Act* apply to Part 2 of this order.
 - (4) The definitions established in section 1 of the *Manufactured Home Park Tenancy Act* apply to Part 3 of this order.

Application

- 2 (1) This order applies during the period that starts on the date this order is made and ends on the date on which the last extension of the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the *Emergency Program Act* expires or is cancelled.
- (2) This order replaces the Residential Tenancy (COVID-19) Order made by MO 89/2020.

PART 2 – RESIDENTIAL TENANCY ACT

Notices to end tenancy

- 3 (1) A landlord must not give a tenant notice to end a tenancy under section 46 (1) [*landlord’s notice: non-payment of rent*] of the *Residential Tenancy Act* in respect of affected rent that is unpaid.
- (2) A landlord must not give a tenant notice to end a tenancy under section 47 (1) [*landlord’s notice: cause*] of the *Residential Tenancy Act* in respect of a reason that relates to the affected rent being unpaid, including one or more of the following reasons:
 - (a) one or more payments of the affected rent are late;
 - (b) the lawful right or interest of the landlord is the right or interest to receive the affected rent;

- (c) the affected rent being unpaid is what put the landlord's property at significant risk;
 - (d) the material term with which the tenant failed to comply is the payment of the affected rent;
 - (e) the order of the director with which the tenant has not complied is a monetary order for the affected rent.
- (3) This section applies despite any section of the *Residential Tenancy Act*, the Residential Tenancy Regulation or any term of a tenancy agreement, including
- (a) in the case of subsection (1) of this section, sections 44 (1) (a) (ii) [*how a tenancy ends*] and 46 (1) of the *Residential Tenancy Act*, and
 - (b) in the case of subsection (2) of this section, sections 44 (1) (a) (iii) and 47 (1) of the *Residential Tenancy Act*.

Orders of possession

- 4 (1) Despite section 84 [*director's orders may be filed in Supreme Court*] of the *Residential Tenancy Act*, a tenant or landlord must not file an order of possession in the Supreme Court of British Columbia unless the order of possession was granted under section 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] of the *Residential Tenancy Act*.
- (2) Subsection (1) applies until the earlier of the following:
- (a) July 1, 2020;
 - (b) the date on which the extension of the declaration of a state of emergency referred to in section 2 (1) of this order expires or is cancelled.

Rent increases – Residential Tenancy Act

- 5 (1) Subject to subsection (2), if a landlord
- (a) gave a notice of rent increase under the *Residential Tenancy Act* before the date of this order and the effective date of the rent increase is after March 30, 2020, or
 - (b) gives a notice of rent increase under the *Residential Tenancy Act* during the period this order is in effect,
- the rent increase does not take effect during the period this order is in effect despite the *Residential Tenancy Act*, the Residential Tenancy Regulation or any term of a tenancy agreement.
- (2) Subsection (1) of this section does not apply to a rent increase that is
- (a) for one or more additional occupants, and
 - (b) is authorized under the tenancy agreement by a term referred to in section 13 (2) (f) (iv) [*requirements for tenancy agreements*] of the *Residential Tenancy Act*.
- (3) If a landlord collects a rent increase that does not comply with this section, the tenant may deduct the increase from rent or otherwise recover the increase.

Tenant's right of access restricted

- 6 (1) It is not unreasonable under section 30 (1) [*tenant's right of access protected*] of the *Residential Tenancy Act* for a landlord to restrict access to common areas of the residential property by
- (a) a tenant of a rental unit that is part of the residential property, or
 - (b) a person permitted on the residential property by a tenant,

if the restriction is necessary

- (c) to protect the health, safety or welfare of the landlord, the tenant, an occupant or a guest of the residential property due to the COVID-19 pandemic,
 - (d) to comply with an order of a federal, British Columbia, regional or municipal government authority, including orders made by the Provincial Health Officer or under the *Emergency Program Act*, or
 - (e) to follow the guidelines of the British Columbia Centre for Disease Control or the Public Health Agency of Canada.
- (2) Despite subsection (1), a landlord must not prevent or interfere with the access of a tenant, another occupant of the rental unit or a tenant's guest to the tenant's rental unit.
- (3) If a landlord has terminated or restricted access to common areas of a residential property and one or more of the circumstances set out in subsection (1) (c) to (e) applies, the director must not grant an order that reduces the rent or any other order for monetary compensation resulting from the termination or restriction of access.
- (4) Subsection (3) of this section applies to any application for dispute resolution unless the director has already held a hearing on an application for dispute resolution.
- (5) Subsections (3) and (4) of this section apply despite any section of the *Residential Tenancy Act*, the Residential Tenancy Regulation or any term of a tenancy agreement, including sections 27 [terminating or restricting services or facilities], 62 (3) [director's authority respecting dispute resolution proceedings], 65 (1) [director's orders: breach of Act, regulations or tenancy agreement] and 67 [director's orders: compensation for damage or loss] of the *Residential Tenancy Act*.

Dispute resolution

- 7 A person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of the rights, obligations and prohibitions under this Part in accordance with Part 5 [*Resolving Disputes*] of the *Residential Tenancy Act*.

PART 3 – MANUFACTURED HOME PARK TENANCY ACT

Notices to end tenancy

- 8 (1) A landlord must not give a tenant notice to end a tenancy under section 39 (1) [*landlord's notice: non-payment of rent*] of the *Manufactured Home Park Tenancy Act* in respect of affected rent that is unpaid.
- (2) A landlord must not give a tenant notice to end a tenancy under section 40 (1) [*landlord's notice: cause*] for a reason that relates to the affected rent being unpaid, including one or more of the following reasons:
- (a) one or more payments of the affected rent are late;
 - (b) the lawful right or interest of the landlord is the right or interest to receive the affected rent;
 - (c) the affected rent being unpaid is what put the landlord's property at significant risk;
 - (d) the material term with which the tenant failed to comply is the payment of the affected rent;
 - (e) the order of the director with which the tenant has not complied is a monetary order for the affected rent.

- (3) This section applies despite any section of the *Manufactured Home Park Tenancy Act*, the *Manufactured Home Park Tenancy Regulation* or any term of a tenancy agreement, including
- (a) in the case of subsection (1) of this section, sections 37 (1) (a) (ii) [*how a tenancy ends*] and 39 of the *Manufactured Home Park Tenancy Act*, and
 - (b) in the case of subsection (2) of this section, sections 37 (1) (a) (iii) and 40 (1) of the *Manufactured Home Park Tenancy Act*.

Orders of possession

- 9 (1) Despite section 77 [*director's orders may be filed in Supreme Court*] of the *Manufactured Home Park Tenancy Act*, a tenant or landlord must not file an order of possession in the Supreme Court of British Columbia unless the order of possession was granted under section 49 [*application for order ending tenancy early*] or 49.1 [*order of possession: tenancy frustrated*] of the *Manufactured Home Park Tenancy Act*.
- (2) Subsection (1) applies until the earlier of the following:
- (a) July 1, 2020;
 - (b) the date on which the extension of the declaration of a state of emergency referred to in section 2 (1) of this order expires or is cancelled.

Rent increases – *Manufactured Home Park Tenancy Act*

- 10 (1) If a landlord
- (a) gave a notice of rent increase under the *Manufactured Home Park Tenancy Act* before the date of this order and the effective date of the rent increase is after March 30, 2020, or
 - (b) gives a notice of rent increase under the *Manufactured Home Park Tenancy Act* during the period this order is in effect,
- the rent increase does not take effect during the period this order is in effect despite the *Manufactured Home Park Tenancy Act*, the *Manufactured Home Park Tenancy Regulation* or any term of a tenancy agreement.
- (2) If a landlord collects a rent increase that does not comply with this section, the tenant may deduct the increase from rent or otherwise recover the increase.

Tenant's right of access restricted

- 11 (1) It is not unreasonable under section 24 (1) [*tenant's right of access protected*] of the *Manufactured Home Park Tenancy Act* for a landlord to restrict access to common areas of the manufactured home park by
- (a) a tenant of a manufactured home site that is part of the manufactured home park, or
 - (b) a person permitted in the manufactured home park by a tenant,
- if the restriction is necessary
- (c) to protect the health, safety or welfare of the landlord, the tenant, an occupant or a guest of the manufactured home park due to the COVID-19 pandemic,
 - (d) to comply with an order of a federal, British Columbia, regional or municipal government authority, including orders made by the Provincial Health Officer or under the *Emergency Program Act*, or

- (e) to follow the guidelines of the British Columbia Centre for Disease Control or the Public Health Agency of Canada.
- (2) Despite subsection (1), a landlord must not prevent or interfere with the access of a tenant, another occupant of the manufactured home or a tenant's guest to the tenant's manufactured home site.
- (3) If a landlord has terminated or restricted access to common areas of a manufactured home park and one or more of the circumstances set out in subsection (1) (c) to (e) applies, the director must not grant an order that reduces the rent or any other order for monetary compensation resulting from the termination or restriction of access.
- (4) Subsection (3) of this section applies to any application for dispute resolution unless the director has already held a hearing on an application for dispute resolution.
- (5) Subsections (3) and (4) of this section apply despite any section of the *Manufactured Home Park Tenancy Act*, the *Manufactured Home Park Tenancy Regulation* or any term of a tenancy agreement, including sections 21 [terminating or restricting services or facilities], 55 (3) [director's authority respecting dispute resolution proceedings], 58 (1) [director's orders: breach of Act, regulations or tenancy agreement] and 60 [director's orders: compensation for damage or loss] of the *Manufactured Home Park Tenancy Act*.

Dispute resolution

- 12** A person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of the rights, obligations and prohibitions under this Part in accordance with Part 6 [Resolving Disputes] of the *Manufactured Home Park Tenancy Act*.