

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF PUBLIC SAFETY AND
SOLICITOR GENERAL

Emergency Program Act

Ministerial Order No. M089

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 social distancing, self-isolation and quarantine resulting from the COVID-19 pandemic can limit the ability of tenants to find and move to new accommodations, especially on short notice;

AND WHEREAS tenants being displaced from their homes without their agreement in non-urgent circumstances will increase the health and safety risks associated with the COVID-19 pandemic;

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 contacts;

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 HEREBY make the attached Residential Tenancy (COVID-19) Order.

March 30, 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

RESIDENTIAL TENANCY (COVID-19) ORDER

PART 1 –APPLICATION

Application

- 1 This order applies during the period that starts on the date this order is made and ends on the date on which the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the *Emergency Program Act* expires or is cancelled, or if there is an extension of the declaration under section 9 (4) of the *Emergency Program Act*, the date on which the last extension expires or is cancelled.

PART 2 – RESIDENTIAL TENANCY ACT

Definitions

- 2 The definitions established in section 1 of the *Residential Tenancy Act* apply to this Part.

Notices to end tenancy

- 3 (1) Despite sections 44 (1) (a) (ii) to (vi) and sections 46 to 49.1 of the *Residential Tenancy Act* or any other section of the *Residential Tenancy Act*, the *Residential Tenancy Regulation* or any term of a tenancy agreement, a landlord must not give a tenant a notice to end the tenancy during the period this order is in effect.
(2) If a landlord gave a tenant a notice to end the tenancy under sections 46, 47, 48, 49 or 49.1 of the *Residential Tenancy Act* before the date of this order, then
 - (a) the notice to end the tenancy remains in effect, subject to the dispute resolution process, and
 - (b) an order of possession may be granted under section 55 of the *Residential Tenancy Act*.

Orders of possession

- 4 (1) Subject to subsection (2) of this section, in addition to the orders that the director may grant under sections 54, 55, 56 and 56.1 of the *Residential Tenancy Act*, the director may grant an order, on application by a landlord under section 56 (1) of the *Residential Tenancy Act*, specifying an earlier date on which a tenancy ends and the effective date of the order of possession if the director is satisfied that
 - (a) the rental unit must be vacated 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*, and
 - (b) it would be unreasonable to wait for this order to no longer apply.
- (2) Except as permitted under section 3 (2) of this order, the director must not grant an order of possession under section 55 (1) of the *Residential Tenancy Act* or in the circumstances described in section 55 (2) (b) of the *Residential Tenancy Act* during the period this order is in effect.
- (3) Despite section 84 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 or 56.1 of the *Residential Tenancy Act*.

- (4) An order of possession granted under section 54 or 55 of the *Residential Tenancy Act* that was submitted to the Supreme Court of British Columbia for filing on or before the date of this order, but for which no writ of possession has been granted, may be refused for filing and returned to the tenant, the landlord, the tenant's or landlord's representative who filed the order of possession.
- (5) If, despite subsections (3) and (4) of this section, a writ of possession is granted after the date of this order in relation to an order of possession granted under section 54 or 55 of the *Residential Tenancy Act*, the tenant or landlord must not seek to enforce that writ of possession during the period this order is in effect.

Writs of possession issued prior to effective date of order

- 5 For the purposes of a writ of possession granted in Form 52 of the *Supreme Court Civil Rules* on or before the date of this order and issued in relation to an order of possession made under the *Residential Tenancy Act*, the term "promptly" is to be read as "at the time when this order no longer applies."

Rent increases – Residential Tenancy Act

- 6 (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 the date of this order, 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) 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

- 7 (1) It is not unreasonable under section 30 (1) 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.

Landlord's right to enter rental unit – *Residential Tenancy Act*

- 8 (1) Despite section 29 (1) (b) of the *Residential Tenancy Act* and sections 11 (2) (a) and (3) of the Schedule to the *Residential Tenancy Regulation*, a landlord must not enter a rental unit that is subject to a tenancy agreement even if the landlord gave the tenant written notice in accordance with those sections that the landlord would be entering the rental unit.
- (2) If a landlord gave written notice under section 29 (1) (b) of the *Residential Tenancy Act* before the date of this order, and the date for entering the rental unit given in the notice increase is after the date of this order, that notice is null and void.
- (3) Despite any section of the *Residential Tenancy Act*, the *Residential Tenancy Regulation* or any term of a tenancy agreement that limits entry by a landlord into a rental unit that is subject to a tenancy agreement, a landlord may enter a rental unit that is subject to a tenancy agreement if the following applies:
 - (a) an emergency in relation to the COVID-19 pandemic exists, and
 - (b) the entry is necessary to protect the health, safety or welfare of the landlord, a tenant, an occupant, a guest or the public.

Personal service

- 9 Despite sections 88 (a), (b) and (e) and 89 (1) (a) and (b) and (2) (a) and (c) of the *Residential Tenancy Act* or any other section of the *Residential Tenancy Act*, the *Residential Tenancy Regulation* or any term of a tenancy agreement, a person must not give or serve any document required to be given or served under the *Residential Tenancy Act*, the *Residential Tenancy Regulation* or any term of a tenancy agreement by leaving a copy of the document with a person.

Dispute resolution

- 10 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 of the *Residential Tenancy Act*.

PART 3 – *MANUFACTURED HOME PARK TENANCY ACT*

Definitions

- 11 The definitions established in section 1 of the *Manufactured Home Park Tenancy Act* apply to this Part.

Notices to end tenancy

- 12 (1) Despite sections 37 (1) (a) (ii) to (v) and sections 39 to 42 of the *Manufactured Home Park Tenancy Act* or any other section of the *Manufactured Home Park Tenancy Act*, the *Manufactured Home Park Tenancy Regulation* or any term of a tenancy agreement, a landlord must not give a tenant a notice to end the tenancy during the period this order is in effect.
- (2) If a landlord gave a tenant a notice to end the tenancy under sections 39, 40, 41 or 42 of the *Manufactured Home Park Tenancy Act* before the date of this order, then
 - (a) the notice to end the tenancy remains in effect, subject to the dispute resolution process, and

- (b) an order of possession may be granted under section 48 of the *Manufactured Home Park Tenancy Act*.

Orders of possession

- 13** (1) Subject to subsection (2) of this section, in addition to the orders that the director may grant under sections 47, 48, 49 and 49.1 of the *Manufactured Home Park Tenancy Act*, the director may grant an order, on application by a landlord under section 49 (1) of the *Manufactured Home Park Tenancy Act*, specifying an earlier date on which a tenancy ends and the effective date of the order of possession if the director is satisfied that
- (a) the rental unit must be vacated 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*, and
 - (b) it would be unreasonable to wait for this order to no longer apply.
- (2) Except as permitted under section 12 (2) of this order, the director must not grant an order of possession under section 48 (1) of the *Manufactured Home Park Tenancy Act* or in the circumstances described in section 48 (2) (b) of the *Manufactured Home Park Tenancy Act* during the period this order is in effect.
- (3) Despite section 77 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 or 49.1 of the *Manufactured Home Park Tenancy Act*.
- (4) An order of possession granted under section 47 or 48 of the *Manufactured Home Park Tenancy Act* that was submitted to the Supreme Court of British Columbia for filing on or before the date of this order, but for which no writ of possession has been granted, may be refused for filing and returned to the tenant, the landlord or the tenant's or landlord's representative who filed the order of possession.
- (5) If, despite subsections (3) and (4) of this section, a writ of possession is granted after the date of this order in relation to an order of possession granted under section 47 or 48 of the *Manufactured Home Park Tenancy Act*, the tenant or landlord must not seek to enforce that writ of possession during the period this order is in effect.

Writs of possession issued prior to effective date of order

- 14** For the purposes of a writ of possession granted in Form 52 of the *Supreme Court Civil Rules* on or before the date of this order and issued in relation to an order of possession made under the *Manufactured Home Park Tenancy Act*, the term “promptly” is to be read as “at the time when this order no longer applies.”

Rent increases – *Manufactured Home Park Tenancy Act*

- 15** (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 the date of this order, 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

- 16** (1) It is not unreasonable under section 24 (1) 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 rental unit or a tenant's guest to the tenant's manufactured home site.

Personal service

- 17** Despite sections 81 (a), (b) and (e) and 82 (1) and (b) and (2) (a) and (c) of the *Manufactured Home Park Tenancy Act* or any other section of the *Manufactured Home Park Tenancy Act*, the *Manufactured Home Park Tenancy Regulation* or any term of a tenancy agreement, a person must not give or serve any document required to be given or served under the *Manufactured Home Park Tenancy Act*, the *Manufactured Home Park Tenancy Regulation* or any term of a tenancy agreement by leaving a copy of the document with a person.

Dispute resolution

- 18** 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 of the *Manufactured Home Park Tenancy Act*.