

Government Issues Phase 3 Recovery Rules – Landlord Restrictions Eased

Yesterday, the BC Government issued Ministerial Order M195 under the Emergency Program Act. These follow Premier Horgan's announcement last week. The initial order, M089 is cancelled. No surprises here!

- They have created a definition called “affected rent”, which means any rent that was due and payable between March 18th and the end of the state of emergency yet to come. Note the State of Emergency lasts for only two weeks, however can be extended by any number of two week periods.
- You **MAY** issue a 10 Day Notice to End Tenancy for any unpaid rent or utilities that were due and payable before March 18th and are still unpaid. This includes all of March 2020 rent.
- You **MAY NOT** issue a 10 Day Notice to End Tenancy for unpaid rent or utilities that were due and payable after March 18th, 2020
- You **MAY NOT** issue a 1 Month Notice for Cause if that cause relates to non-payment or late payment of rent during the state of emergency (March 18th onwards). This basically means you cannot issue a Notice to End Tenancy for late payment of rent at all. You can't use any other reason for cause, such as jeopardizing your lawful rights by not paying rent.
- You **MAY** issue a 1 Month Notice for Cause for any other reason including disturbing other tenants or the landlord, failing to comply with a material term (other than anything relating to payment of rent), excessive damage to property, landlord or purchaser occupancy, etc.
- You **MAY** issue a 24 hour Notice of Entry for any valid reason as before. The tenant cannot refuse you entry if properly served.
- You **MAY** file an Order of Possession in Supreme Court after July 1st if you have one. This includes obtaining a writ of possession and engaging a Court Bailiff. (Note that you always could register a monetary order if the court was open.)
- The rules relating to rent increases are unchanged from before. You can still issue a rent increase, but it cannot take effect until after the state of emergency is lifted. Always attach a note stating, “This rent increase will become effective the later of the scheduled date and the lifting of the emergency order suspending rent increases.”
- The rules allowing you to restrict access to common areas also remain unchanged. You may limit a tenant's and tenant's guests' access to common areas and facilities if it is to promote health, safety, and social distancing. An arbitrator cannot grant a tenant's application for a rent reduction as the result of these facilities being temporarily closed or access restricted.
- Personal service is legal again. Email service of notices after June 24 is not legal service. Any notice emailed before June 24th is still valid.