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# COVID-19 IMPACT ON BC RENTERS

LAST UPDATED BY ANDREW SAKAMOTO ON APRIL 7, 2020





TENANT RESOURCE & ADVISORY CENTRE

promotes the legal protection of residential  
tenants across BC by providing  
**INFORMATION, EDUCATION,  
SUPPORT and RESEARCH**  
on residential tenancy matters.

# TRAC

## OVERVIEW



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4.12 Deposit Return

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Q: What do I have to do to get my security deposit back at the end of my tenancy?

First, provide your landlord with your forwarding address in writing for where your deposit can be sent. As is the case with all communication during your tenancy, make sure you have proof of how you gave your landlord your

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# GOVERNMENT PLAN FOR COVID-19

## MARCH 25<sup>TH</sup>

- Government announced their plan to support tenants and landlords, which includes:
  - amendments to *Residential Tenancy Act* (e.g. eviction moratorium)
  - operational changes to Residential Tenancy Branch (RTB) dispute resolution system
  - financial assistance for tenants / landlords

## MARCH 30<sup>th</sup>

- Government passed a Ministerial Order to amend the *Residential Tenancy Act*
- RTB issued two new documents:
  - “Practice Directive: Extending Timelines”
  - “Director's Orders: Email Service”

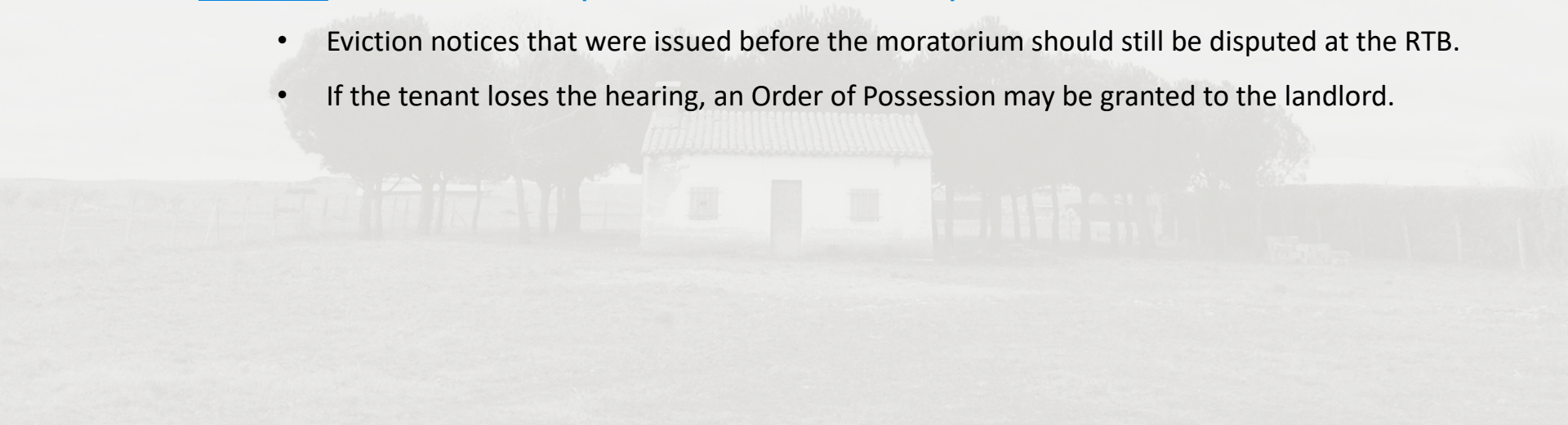


# EVICTIION MORATORIUM

## NEW EVICTION NOTICES (ISSUED MARCH 30<sup>TH</sup> OR LATER)

- Eviction notices served during the moratorium are of no effect and do not need to be disputed at the Residential Tenancy Branch (RTB).
  - EXCEPTION: Landlords can still apply to the RTB for an early end of tenancy and Order of Possession for “extreme circumstances” where the tenant is causing major problems and it would be unfair to wait for the eviction moratorium to end.

## PREVIOUS EVICTION NOTICES (ISSUED BEFORE MARCH 30<sup>TH</sup>)

- Eviction notices that were issued before the moratorium should still be disputed at the RTB.
  - If the tenant loses the hearing, an Order of Possession may be granted to the landlord.
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# "EXTREME CIRCUMSTANCES"

## RTA SECTION 56

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
  - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
  - (iii) put the landlord's property at significant risk;
  - (iv) engaged in illegal activity that
    - (A) has caused or is likely to cause damage to the landlord's property,
    - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
    - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
  - (v) caused extraordinary damage to the residential property, and



# ORDERS / WRITS OF POSSESSION & BAILIFFS

- To physically remove a tenant, a landlord must obtain:
  1. Residential Tenancy Branch (RTB) Order of Possession
  2. BC Supreme Court Writ of Possession
  3. Services of a Court-Approved Bailiff
- We already learned that during the moratorium, the RTB will only be granting NEW Orders of Possession for “extreme circumstances” where the tenant is causing major problems, but...

## Q: WHAT ABOUT PREVIOUS ORDERS OF POSSESSION?

- A: According to the new Ministerial Order, a landlord must not file an Order of Possession in the Supreme Court. If they do, it may be refused for filing and returned.
- EXCEPTION: the RTB issued the Order of Possession for an “extreme circumstance”

# ORDERS / WRITS OF POSSESSION & BAILIFFS

## Q: WHAT ABOUT NEW WRITS OF POSSESSION?

A: According to the new Ministerial Order, if a Writ of Possession is granted after the date of the eviction moratorium, the landlord must not seek to enforce that Writ of Possession with a court-approved bailiff during the moratorium.

- EXCEPTION: the RTB issued the Order of Possession for an “extreme circumstance”

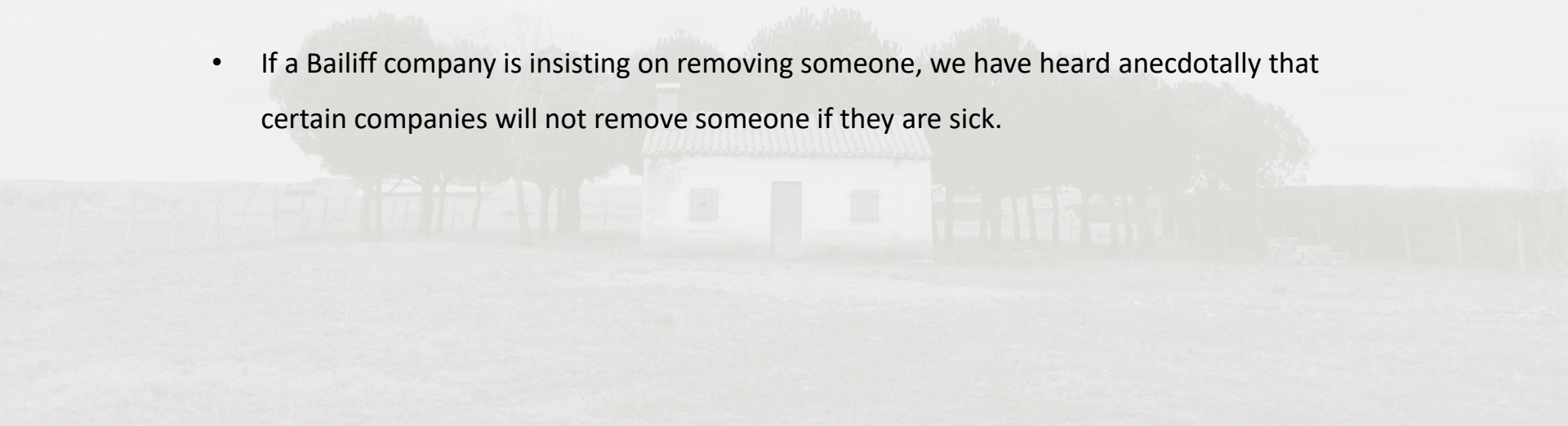
## Q: WHAT ABOUT PREVIOUS WRITS OF POSSESSION?

A: According to the new Ministerial Order, instead of enforcing Writs of Possession “promptly”, bailiffs have been instructed to enforce them “at the time when the [eviction moratorium] no longer applies.”

- EXCEPTION: the RTB issued the Order of Possession for an “extreme circumstance”


# ORDERS / WRITS OF POSSESSION & BAILIFFS

- Despite what the Ministerial Order says, will the Supreme Court and Bailiff companies follow the Order and refrain from enforcing Orders and Possession and Writs of Possession?
- The most important consideration right now is keeping tenants in their homes and preventing unnecessary displacement. Contact TRAC if you encounter any issues.
- If a Bailiff company is insisting on removing someone, we have heard anecdotally that certain companies will not remove someone if they are sick.





# ACCESS TO JUSTICE

- Most Residential Tenancy Branch (RTB) dispute resolution hearings will be moving forward as scheduled.
  - With in-person services suspended at the RTB and most tenant advocacy organizations, the RTB has released a new guidance document, “Practice Directive: Extending Timelines” to reduce access to justice and procedural fairness issues during the COVID-19 pandemic.
  - The document has been created to help protect seniors, persons with disabilities, and other tenants who face barriers to accessing the RTB’s dispute resolution system during the COVID-19 pandemic.
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# PRACTICE DIRECTIVE: EXTENDING TIMELINES

- The document deals with circumstances where the current COVID-19 pandemic prevents or delays people from making an application for dispute resolution, applying for a review, or submitting and/or serving evidence by a required deadline.
  - Arbitrators have been directed to consider the COVID-19 pandemic as a factor that is **“BEYOND THE PARTY’S CONTROL”** when determining if an adjournment is appropriate.
  - Arbitrators have been directed to consider the COVID-19 pandemic as an **“EXCEPTIONAL CIRCUMSTANCE”** when considering extending time limits.
- For hearings that are moving forward, please let TRAC know if your clients experience any access to justice issues.
  - TRAC’s Housing Law Clinic does judicial reviews at Supreme Court.

# ILLEGAL LOCKOUTS

- If a landlord tries to physically remove a tenant in an illegal manner, the Residential Tenancy Branch's **ENFORCEMENT AND COMPLIANCE UNIT** is still available to intervene in these types of illegal lockouts, as well as other serious and urgent matters.



# TENANT'S NOTICE TO END TENANCY

- If a tenant served a notice to move in March, they are still expected to move out on April 30<sup>th</sup>.
- Landlord might be able to obtain an Order of Possession by applying to enforce the tenant's own notice to move out.
  - No eviction notice required.
- However, the landlord might not be able to enforce that Order of Possession until after the moratorium.



# BUILDING AND RENTAL UNIT ACCESS

- Landlords / agents of landlords can now only access a tenant's individual unit for emergencies (e.g. emergency repairs), or with explicit consent from the tenant.
  - No open houses / showings
  - No routine maintenance
  - Previous notices to enter are null and void
- Landlords can restrict the use of **COMMON AREAS** by tenants or guests if the restriction is necessary 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.
  - Games / entertainment rooms may be closed
  - Limit to the number of people allowed in shared laundry room at one time
  - 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.

# “RENT FREEZE”

- Tenants are still responsible for paying rent, but landlords cannot raise rents until further notice
- This “rent freeze” applies to previous rent increase notices that were served months ago, effective April 1<sup>st</sup>.
- Landlords can still issue rent increase notices, but they can’t take effect during the pandemic.





# FINANCIAL ASSISTANCE

- Canada Emergency Response Benefit
  - \$500 a week for up to 16 weeks
- BC Emergency Benefit for Workers
  - One-time payment of up to \$1,000
- BC Rental Rebate
  - Up to \$500 per month for 3 months (4 months?)
  - Tenant applies, but money gets sent directly to the landlord
- Possible adjustment to monthly benefits from SAFER and RAP
- These measures will help renters **SURVIVE**, but more financial assistance will be needed to help them **RECOVER**. There's no point in just postponing evictions until after the pandemic.
  - The Premier and Housing Minister have said that no tenant will be evicted due to COVID-19

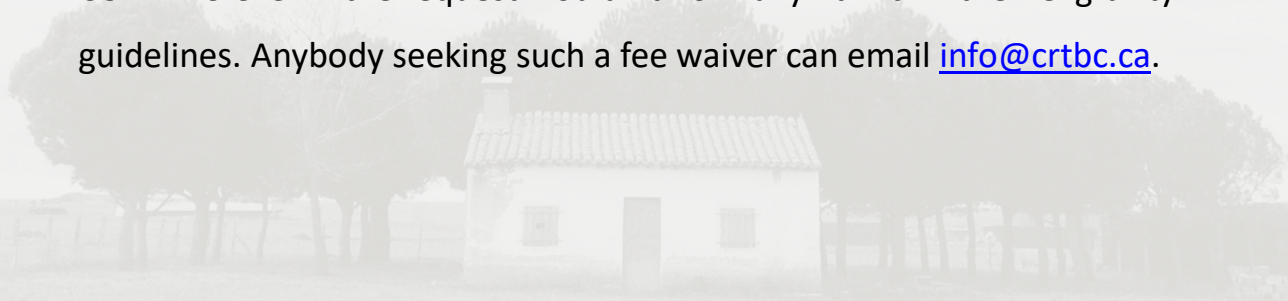
# SERVICE OF DOCUMENTS

- Personal service of documents is currently prohibited during the COVID-19 pandemic.
- According to “Director's Orders: Email Service”, documents can be served by email, as long as you:
  - can show that the other party received the email; or
  - have sent the documents to an email address that the other party has routinely used to correspond about tenancy matters.



# CIVIL RESOLUTION TRIBUNAL

- Non-RTA renters can use the Civil Resolution Tribunal to resolve legal disputes.
- Message from the Chair of the CRT:
  - Anyone who needs an **EXTENSION** of time can email [info@crtbc.ca](mailto:info@crtbc.ca) with the dispute number and a brief description (1-2 sentences) of the COVID-19 related request.
  - The CRT is exercising its discretion to grant **FEE WAIVERS** to people affected by COVID-19 even if the request wouldn't normally fit within their eligibility guidelines. Anybody seeking such a fee waiver can email [info@crtbc.ca](mailto:info@crtbc.ca).



Questions?



# CONTACT TRAC



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[rentingitright.ca](http://rentingitright.ca)



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