



Landlord and Tenant Fact Sheet

RTB-103

Landlord: Enforcing an Order of Possession

s. 84 Residential Tenancy Act and s. 77 Manufactured Home Park Tenancy Act

An Order of Possession gives the landlord the right to repossess the rental unit and requires the tenant to leave. In other words, the tenant is being evicted. If the tenant does not move out, the landlord can enforce the order through the Supreme Court of British Columbia. The Residential Tenancy Branch (RTB) does not enforce orders.

An order that has been suspended under the *Residential Tenancy Act* (RTA) or the *Manufactured Home Park Tenancy Act* (MHPTA) cannot be enforced.

Serving the Order

s. 88 RTA and s. 81 MHPTA

The RTB will provide the landlord with at least three original orders:

- one for the landlord's records,
- one for each respondent, or person, named on the order, and
- one to file at the Supreme Court.

The landlord must serve the order to each respondent in one of the ways set out in the RTA and the MHPTA. How the order is served will make a difference about when the tenant will have to move out. For example, if the order was handed to the tenant, it is considered to have been served on that date. However, if the order is posted on the tenant's door, it is considered have been served three days later.

If the tenant applies for a Review of an Order of Possession

s. 80 RTA and s. 73 MHPTA

A landlord cannot have the order of possession enforced until the two-day time period has passed and must contact the RTB to see if the tenant has filed for a review within the deadline. An application for a review does not automatically suspend the order. However, an order that has been suspended cannot be enforced until the review process is complete.

A tenant can ask a Dispute Resolution Officer (DRO) to review the Order of Possession, if the tenant:

- can prove they were unable to attend the original hearing due to circumstances beyond their control;
- has new and relevant evidence that was not available at the time of the original hearing; or
- has evidence that the decision was obtained by fraud.

A tenant can submit an Application to Review a DRO's Decision or Order within two days of the order being served. If the second day falls on a day when the RTB is closed, the tenant has until the next business day to submit the application for review.

- See Fact Sheet #RTB-100 – Review of a Dispute Resolution Officer's Decision

Office of Housing and Construction Standards

Residential Tenancy Branch

Lower Mainland: 604-660-1020 Victoria: 387-1602 Elsewhere in BC: 1-800-665-8779

Website: www.rto.gov.bc.ca

#04018-103(10/2006)

Enforcing the Order

An Order of Possession is enforceable through the Supreme Court of British Columbia. You must use a bailiff because only a bailiff can legally remove the tenant and the tenant's belongings from the rental property. The enforcement process can happen quickly, often within a few days.

Steps to enforce the order:

1. Before you file your application to the Court, select a bailiff from a list of bailiffs that is available from a court services office;
2. File the following document at the Court:
 - o Order of Possession (an original),
 - o A completed Affidavit (RTO-15) to show that the order was served appropriately, and
 - o A Writ of Possession.

Through the RTB, a landlord can also seek financial compensation from the tenant to cover costs related to removing the tenant, such as bailiff fees or expenses of the incoming tenant, including alternate accommodation, meals, additional moving costs or truck rental fees.

Illegal eviction

It is against the law for a landlord to:

- physically evict a tenant without a Writ of Possession from the BC Supreme Court, or
- change the locks without a DRO's order to do so, or
- seize a tenant's personal property without a court order.

A landlord who illegally evicts a tenant can be fined up to \$5,000 and may be required to reimburse costs incurred by the tenant as a result.

For more information ...

Visit the RTB's Web site at www.rto.gov.bc.ca.

Call an Information Officer or listen to our 24 Hour Recorded Information Line:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

Visit the RTB nearest you:

Burnaby: 400-5021 Kingsway

Victoria: 1st Floor, 1019 Wharf Street

Kelowna: 101-2141 Springfield Road

RTB Burnaby and Victoria are open 8:30 a.m. to 4:30 p.m., Monday to Friday.

RTB Kelowna is open 8:30 a.m. to 12 noon, Monday to Friday for limited services.

All RTB offices are closed on statutory holidays.

If there is no RTB in your area, you can get residential tenancy guides, fact sheets and forms online at www.rto.gov.bc.ca or at any Service BC—Government Agents Office.