



This Act is Current to February 9, 2011

## **RESIDENTIAL TENANCY ACT**

### **[SBC 2002] CHAPTER 78**

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## **Part 1 — Introductory Provisions**

### **Division 1 — General**

#### **Definitions**

**1** In this Act:

**"application for dispute resolution"** means an application to the director under section 58 (1) [*determining disputes*];

**"approved form"** means the form approved by the director under section 10 (1) [*director may approve forms*] for the purposes of the section in which it appears;

**"common area"** means any part of residential property the use of which is shared by tenants, or by a landlord and one or more tenants;

**"director"** means the director appointed under section 8 [*appointment of director*] and, in relation to a power, duty or function of the director given to an employee referred to in section 9 (2) or delegated to a person retained under that section, includes that employee or person;

**"dispute resolution proceedings"** means proceedings started by making an application for dispute resolution under section 58 (1);

**"fixed term tenancy"** means a tenancy under a tenancy agreement that specifies the date on which the tenancy ends;

**"landlord"**, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
  - (i) is entitled to possession of the rental unit, and
  - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

**"manufactured home"** has the same meaning as in the *Manufactured Home Park Tenancy Act*;

**"periodic tenancy"** means

- (a) a tenancy on a weekly, monthly or other periodic basis under a tenancy agreement that continues until it is ended in accordance with this Act, and
- (b) in relation to a fixed term tenancy agreement that does not provide that the tenant will vacate the rental unit at the end of the fixed term, a tenancy that arises under section 44 (3) [*how a tenancy ends*];

**"pet damage deposit"** means money paid, or value or a right given, by or on behalf of a tenant to a landlord that is to be held as security for damage to residential property caused by a pet, but does not include

- (a) a security deposit, or
- (b) a fee prescribed under section 97 (2) (k) [*regulations in relation*

*to fees];*

**"registered mail"** includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available;

**"rent"** means money paid or agreed to be paid, or value or a right given or agreed to be given, by or on behalf of a tenant to a landlord in return for the right to possess a rental unit, for the use of common areas and for services or facilities, but does not include any of the following:

- (a) a security deposit;
- (b) a pet damage deposit;
- (c) a fee prescribed under section 97 (2) (k) [*regulations in relation to fees*];

**"rental unit"** means living accommodation rented or intended to be rented to a tenant;

**"residential property"** means

- (a) a building, a part of a building or a related group of buildings, in which one or more rental units or common areas are located,
- (b) the parcel or parcels on which the building, related group of buildings or common areas are located,
- (c) the rental unit and common areas, and
- (d) any other structure located on the parcel or parcels;

**"security deposit"** means money paid, or value or a right given, by or on behalf of a tenant to a landlord that is to be held as security for any liability or obligation of the tenant respecting the residential property, but does not include any of the following:

- (a) post-dated cheques for rent;
- (b) a pet damage deposit;
- (c) a fee prescribed under section 97 (2) (k) [*regulations in relation to fees*];

**"service or facility"** includes any of the following that are provided or agreed to be provided by the landlord to the tenant of a rental unit:

- (a) appliances and furnishings;
- (b) utilities and related services;
- (c) cleaning and maintenance services;
- (d) parking spaces and related facilities;
- (e) cablevision facilities;

- (f) laundry facilities;
- (g) storage facilities;
- (h) elevator;
- (i) common recreational facilities;
- (j) intercom systems;
- (k) garbage facilities and related services;
- (l) heating facilities or services;
- (m) housekeeping services;

**"standard terms"** means the standard terms of a tenancy agreement prescribed in the regulations;

**"tenancy"** means a tenant's right to possession of a rental unit under a tenancy agreement;

**"tenancy agreement"** means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

**"tenant"** includes

- (a) the estate of a deceased tenant, and
- (b) when the context requires, a former or prospective tenant.

### **What this Act applies to**

**2** (1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, rental units and other residential property.

(2) Except as otherwise provided in this Act, this Act applies to a tenancy agreement entered into before or after the date this Act comes into force.

### **Act applies to tenancy agreement with a minor**

**3** A person who has not reached 19 years of age may enter into a tenancy agreement or a service agreement, and the agreement and this Act and the regulations are enforceable by and against the person despite section 19 of the *Infants Act*.

### **What this Act does not apply to**

- 4** This Act does not apply to
- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,

- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
- (d) living accommodation included with premises that
  - (i) are primarily occupied for business purposes, and
  - (ii) are rented under a single agreement,
- (e) living accommodation occupied as vacation or travel accommodation,
- (f) living accommodation provided for emergency shelter or transitional housing,
- (g) living accommodation
  - (i) in a community care facility under the *Community Care and Assisted Living Act*,
  - (ii) in a continuing care facility under the *Continuing Care Act*,
  - (iii) in a public or private hospital under the *Hospital Act*,
  - (iv) if designated under the *Mental Health Act*, in a Provincial mental health facility, an observation unit or a psychiatric unit,
  - (v) in a housing based health facility that provides hospitality support services and personal health care, or
  - (vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,
- (h) living accommodation in a correctional institution,
- (i) living accommodation rented under a tenancy agreement that has a term longer than 20 years,
- (j) tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies, or
- (k) prescribed tenancy agreements, rental units or residential property.

### **This Act cannot be avoided**

- 5** (1) Landlords and tenants may not avoid or contract out of this Act or the regulations.
- (2) Any attempt to avoid or contract out of this Act or the regulations is of no effect.

### **Enforcing rights and obligations of landlords and tenants**

- 6** (1) The rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement.
- (2) A landlord or tenant may make an application for dispute resolution if the landlord and tenant cannot resolve a dispute referred to in section 58 (1) *[determining disputes]*.
- (3) A term of a tenancy agreement is not enforceable if
- (a) the term is inconsistent with this Act or the regulations,
  - (b) the term is unconscionable, or
  - (c) the term is not expressed in a manner that clearly communicates the rights and obligations under it.

### **Liability for not complying with this Act or a tenancy agreement**

- 7** (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.
- (2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

## **Division 2 — Administration of this Act**

### **Appointment of director**

- 8** A director must be appointed in accordance with the *Public Service Act* for the purposes of this Act.

### **Director's powers and duties**

- 9** (1) The director is responsible for the administration and management of all matters and persons appointed or retained under this Act.
- (2) Employees may be appointed under the *Public Service Act*, and the director may retain other persons, whom the director considers necessary to exercise the director's powers and perform the director's duties and functions under this Act.
- (3) The director may establish and publish rules of procedure for the conduct of proceedings under Part 5 *[Resolving Disputes]*.
- (4) The director may not assign or delegate to the same person both the function of conducting investigations under section 96.1 *[investigations]* into a matter and the power to impose penalties under section 94.1 *[administrative penalties]* in relation to that matter.

- (5) The director may do one or more of the following:
- (a) provide information to landlords and tenants about their rights and obligations under this Act;
  - (b) help landlords and tenants resolve any dispute in relation to which an application for dispute resolution has been or may be made;
  - (c) publish, or otherwise make available to the public, decisions under Part 5 or summaries of them.

### **Director's power to delegate to contractors**

**9.1** (1) The director may delegate to a person retained under section 9 (2) any of the director's powers, duties or functions under this Act, except the power under section 9 (3) and the power to delegate under this section.

(2) A delegation under subsection (1)

- (a) may be cancelled,
- (b) does not prevent the director from carrying out the delegated power, duty or function, and
- (c) may be subject to the terms or conditions the director considers appropriate.

(3) If the director ceases to hold office, a delegation under this section continues in effect

- (a) for the duration of the contract, or
- (b) until cancelled by a succeeding director.

(4) A person who claims to be carrying out a power, duty or function delegated by the director under this section, on request, must produce evidence of the delegation.

### **Director may approve forms**

**10** (1) The director may approve forms for the purposes of this Act.

(2) Deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.

### **Director and staff must not be compelled in civil proceedings**

**11** (1) The director and persons employed, engaged or retained under section 9

(2) [*director's powers and duties*] must not be compelled in civil proceedings arising out of a dispute under this Act

- (a) to give evidence in respect of matters that come to his or her knowledge in the course of his or her employment, or
- (b) to produce records that are in the possession of the director

because of the director's powers or duties under this Act.

(2) Despite subsection (1), the court may require the director to produce the record of a dispute resolution proceeding that is the subject of an application for judicial review under the *Judicial Review Procedure Act*.

## **Part 2 — Residential Tenancies — Rights and Obligations**

### **Division 1 — Creating a Tenancy Agreement**

#### **Tenancy agreements include the standard terms**

**12** The standard terms are terms of every tenancy agreement

- (a) whether the tenancy agreement was entered into on or before, or after, January 1, 2004, and
- (b) whether or not the tenancy agreement is in writing.

#### **Requirements for tenancy agreements**

**13** (1) A landlord must prepare in writing every tenancy agreement entered into on or after January 1, 2004.

(2) A tenancy agreement must comply with any requirements prescribed in the regulations and must set out all of the following:

- (a) the standard terms;
- (b) the correct legal names of the landlord and tenant;
- (c) the address of the rental unit;
- (d) the date the tenancy agreement is entered into;
- (e) the address for service and telephone number of the landlord or the landlord's agent;
- (f) the agreed terms in respect of the following:
  - (i) the date on which the tenancy starts;
  - (ii) if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis;
  - (iii) if the tenancy is a fixed term tenancy,
    - (A) the date the tenancy ends, and
    - (B) whether the tenancy may continue as a periodic tenancy or for another fixed term after that date or whether the tenant must vacate the rental unit on that date;
  - (iv) the amount of rent payable for a specified period, and, if the rent varies with the number of occupants, the amount by

which it varies;

(v) the day in the month, or in the other period on which the tenancy is based, on which the rent is due;

(vi) which services and facilities are included in the rent;

(vii) the amount of any security deposit or pet damage deposit and the date the security deposit or pet damage deposit was or must be paid.

(3) Within 21 days after a landlord and tenant enter into a tenancy agreement, the landlord must give the tenant a copy of the agreement.

### **Changes to tenancy agreement**

**14** (1) A tenancy agreement may not be amended to change or remove a standard term.

(2) A tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment.

(3) The requirement for agreement under subsection (2) does not apply to any of the following:

(a) a rent increase in accordance with Part 3 of this Act;

(b) a withdrawal of, or a restriction on, a service or facility in accordance with section 27 [*terminating or restricting services or facilities*];

(c) a term in respect of which a landlord or tenant has obtained an order of the director that the agreement of the other is not required.

### **Application and processing fees prohibited**

**15** A landlord must not charge a person anything for

(a) accepting an application for a tenancy,

(b) processing the application,

(c) investigating the applicant's suitability as a tenant, or

(d) accepting the person as a tenant.

### **Start of rights and obligations under tenancy agreement**

**16** The rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.

## **Division 2 — Other Specific Terms in a Tenancy Agreement**

### **Landlord may require security deposit**

**17** A landlord may require, in accordance with this Act and the regulations, a tenant to pay a security deposit as a condition of entering into a tenancy agreement or as a term of a tenancy agreement.

### **Terms respecting pets and pet damage deposits**

**18** (1) A tenancy agreement may include terms or conditions doing either or both of the following:

(a) prohibiting pets, or restricting the size, kind or number of pets a tenant may keep on the residential property;

(b) governing a tenant's obligations in respect of keeping a pet on the residential property.

(2) If, after January 1, 2004, a landlord permits a tenant to keep a pet on the residential property, the landlord may require the tenant to pay a pet damage deposit in accordance with sections 19 [*limits on amount of deposits*] and 20 [*landlord prohibitions respecting deposits*].

(3) This section is subject to the rights and restrictions under the *Guide Animal Act*.

### **Limits on amount of deposits**

**19** (1) A landlord must not require or accept either a security deposit or a pet damage deposit that is greater than the equivalent of 1/2 of one month's rent payable under the tenancy agreement.

(2) If a landlord accepts a security deposit or a pet damage deposit that is greater than the amount permitted under subsection (1), the tenant may deduct the overpayment from rent or otherwise recover the overpayment.

### **Landlord prohibitions respecting deposits**

**20** A landlord must not do any of the following:

(a) require a security deposit at any time other than when the landlord and tenant enter into the tenancy agreement;

(b) require or accept more than one security deposit in respect of a tenancy agreement;

(c) require a pet damage deposit at any time other than

(i) when the landlord and tenant enter into the tenancy agreement, or

(ii) if the tenant acquires a pet during the term of a tenancy agreement, when the landlord agrees that the tenant may keep

the pet on the residential property;

(d) require or accept more than one pet damage deposit in respect of a tenancy agreement, irrespective of the number of pets the landlord agrees the tenant may keep on the residential property;

(e) require, or include as a term of a tenancy agreement, that the landlord automatically keeps all or part of the security deposit or the pet damage deposit at the end of the tenancy agreement.

### **Tenant prohibition respecting deposits**

**21** Unless the landlord gives written consent, a tenant must not apply a security deposit or a pet damage deposit as rent.

### **Acceleration term prohibited**

**22** A tenancy agreement must not include a term that all or part of the rent payable for the remainder of the period of the tenancy agreement becomes due and payable if a term of the tenancy agreement is breached.

## **Division 3 — At the Start of a Tenancy**

### **Condition inspection: start of tenancy or new pet**

**23** (1) The landlord and tenant together must inspect the condition of the rental unit on the day the tenant is entitled to possession of the rental unit or on another mutually agreed day.

(2) The landlord and tenant together must inspect the condition of the rental unit on or before the day the tenant starts keeping a pet or on another mutually agreed day, if

(a) the landlord permits the tenant to keep a pet on the residential property after the start of a tenancy, and

(b) a previous inspection was not completed under subsection (1).

(3) The landlord must offer the tenant at least 2 opportunities, as prescribed, for the inspection.

(4) The landlord must complete a condition inspection report in accordance with the regulations.

(5) Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.

(6) The landlord must make the inspection and complete and sign the report without the tenant if

(a) the landlord has complied with subsection (3), and

(b) the tenant does not participate on either occasion.

### **Consequences for tenant and landlord if report requirements not met**

**24** (1) The right of a tenant to the return of a security deposit or a pet damage deposit, or both, is extinguished if

(a) the landlord has complied with section 23 (3) [*2 opportunities for inspection*], and

(b) the tenant has not participated on either occasion.

(2) The right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord

(a) does not comply with section 23 (3) [*2 opportunities for inspection*],

(b) having complied with section 23 (3), does not participate on either occasion, or

(c) does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.

### **Rekeying locks for new tenants**

**25** (1) At the request of a tenant at the start of a new tenancy, the landlord must

(a) rekey or otherwise alter the locks so that keys or other means of access given to the previous tenant do not give access to the rental unit, and

(b) pay all costs associated with the changes under paragraph (a).

(2) If the landlord already complied with subsection (1) (a) and (b) at the end of the previous tenancy, the landlord need not do so again.

## **Division 4 — During a Tenancy**

### **Rules about payment and non-payment of rent**

**26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

(2) A landlord must provide a tenant with a receipt for rent paid in cash.

(3) Whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not

(a) seize any personal property of the tenant, or

(b) prevent or interfere with the tenant's access to the tenant's personal property.

(4) Subsection (3) (a) does not apply if

(a) the landlord has a court order authorizing the action, or

(b) the tenant has abandoned the rental unit and the landlord complies with the regulations.

### **Terminating or restricting services or facilities**

**27** (1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b) providing the service or facility is a material term of the tenancy agreement.

(2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

(a) gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

### **Protection of tenant's right to quiet enjoyment**

**28** A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

(a) reasonable privacy;

(b) freedom from unreasonable disturbance;

(c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];

(d) use of common areas for reasonable and lawful purposes, free from significant interference.

### **Landlord's right to enter rental unit restricted**

**29** (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

(a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;

(b) at least 24 hours and not more than 30 days before the entry,

the landlord gives the tenant written notice that includes the following information:

- (i) the purpose for entering, which must be reasonable;
  - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
  - (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
  - (d) the landlord has an order of the director authorizing the entry;
  - (e) the tenant has abandoned the rental unit;
  - (f) an emergency exists and the entry is necessary to protect life or property.
- (2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

### **Tenant's right of access protected**

- 30** (1) A landlord must not unreasonably restrict access to residential property by
- (a) the tenant of a rental unit that is part of the residential property, or
  - (b) a person permitted on the residential property by that tenant.
- (2) A landlord must not unreasonably restrict access to residential property by
- (a) a candidate seeking election to the Parliament of Canada, the Legislative Assembly or an office in an election under the *Local Government Act*, the *School Act* or the *Vancouver Charter*, or
  - (b) the authorized representative of such a person
- who is canvassing electors or distributing election material.

### **Prohibitions on changes to locks and other access**

- 31** (1) A landlord must not change locks or other means that give access to residential property unless the landlord provides each tenant with new keys or other means that give access to the residential property.
- (1.1) A landlord must not change locks or other means of access to a rental unit unless
- (a) the tenant agrees to the change, and
  - (b) the landlord provides the tenant with new keys or other means of access to the rental unit.
- (2) A tenant must not change locks or other means that give access to common areas of residential property unless the landlord consents to the

change.

(3) A tenant must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing to, or the director has ordered, the change.

### **Landlord and tenant obligations to repair and maintain**

**32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

### **Emergency repairs**

**33** (1) In this section, "**emergency repairs**" means repairs that are

(a) urgent,

(b) necessary for the health or safety of anyone or for the preservation or use of residential property, and

(c) made for the purpose of repairing

(i) major leaks in pipes or the roof,

(ii) damaged or blocked water or sewer pipes or plumbing fixtures,

(iii) the primary heating system,

(iv) damaged or defective locks that give access to a rental unit,

(v) the electrical systems, or

(vi) in prescribed circumstances, a rental unit or residential property.

(2) The landlord must post and maintain in a conspicuous place on residential property, or give to a tenant in writing, the name and telephone number of a person the tenant is to contact for emergency repairs.

(3) A tenant may have emergency repairs made only when all of the following conditions are met:

- (a) emergency repairs are needed;
- (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;
- (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

(4) A landlord may take over completion of an emergency repair at any time.

(5) A landlord must reimburse a tenant for amounts paid for emergency repairs if the tenant

- (a) claims reimbursement for those amounts from the landlord, and
- (b) gives the landlord a written account of the emergency repairs accompanied by a receipt for each amount claimed.

(6) Subsection (5) does not apply to amounts claimed by a tenant for repairs about which the director, on application, finds that one or more of the following applies:

- (a) the tenant made the repairs before one or more of the conditions in subsection (3) were met;
- (b) the tenant has not provided the account and receipts for the repairs as required under subsection (5) (b);
- (c) the amounts represent more than a reasonable cost for the repairs;
- (d) the emergency repairs are for damage caused primarily by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(7) If a landlord does not reimburse a tenant as required under subsection (5), the tenant may deduct the amount from rent or otherwise recover the amount.

### **Assignment and subletting**

**34** (1) Unless the landlord consents in writing, a tenant must not assign a tenancy agreement or sublet a rental unit.

(2) If a fixed term tenancy agreement is for 6 months or more, the landlord must not unreasonably withhold the consent required under subsection (1).

(3) A landlord must not charge a tenant anything for considering, investigating

or consenting to an assignment or sublease under this section.

## **Division 5 — At the End of a Tenancy**

### **Condition inspection: end of tenancy**

- 35** (1) The landlord and tenant together must inspect the condition of the rental unit before a new tenant begins to occupy the rental unit
- (a) on or after the day the tenant ceases to occupy the rental unit, or
  - (b) on another mutually agreed day.
- (2) The landlord must offer the tenant at least 2 opportunities, as prescribed, for the inspection.
- (3) The landlord must complete a condition inspection report in accordance with the regulations.
- (4) Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.
- (5) The landlord may make the inspection and complete and sign the report without the tenant if
- (a) the landlord has complied with subsection (2) and the tenant does not participate on either occasion, or
  - (b) the tenant has abandoned the rental unit.

### **Consequences for tenant and landlord if report requirements not met**

- 36** (1) The right of a tenant to the return of a security deposit or a pet damage deposit, or both, is extinguished if
- (a) the landlord complied with section 35 (2) [*2 opportunities for inspection*], and
  - (b) the tenant has not participated on either occasion.
- (2) Unless the tenant has abandoned the rental unit, the right of the landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord
- (a) does not comply with section 35 (2) [*2 opportunities for inspection*],
  - (b) having complied with section 35 (2), does not participate on either occasion, or
  - (c) having made an inspection with the tenant, does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.

### **Leaving the rental unit at the end of a tenancy**

- 37** (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.
- (2) When a tenant vacates a rental unit, the tenant must
- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
  - (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

### **Return of security deposit and pet damage deposit**

- 38** (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of
- (a) the date the tenancy ends, and
  - (b) the date the landlord receives the tenant's forwarding address in writing,
- the landlord must do one of the following:
- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
  - (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.
- (2) Subsection (1) does not apply if the tenant's right to the return of a security deposit or a pet damage deposit has been extinguished under section 24 (1) [*tenant fails to participate in start of tenancy inspection*] or 36 (1) [*tenant fails to participate in end of tenancy inspection*].
- (3) A landlord may retain from a security deposit or a pet damage deposit an amount that
- (a) the director has previously ordered the tenant to pay to the landlord, and
  - (b) at the end of the tenancy remains unpaid.
- (4) A landlord may retain an amount from a security deposit or a pet damage deposit if,
- (a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or
  - (b) after the end of the tenancy, the director orders that the landlord

may retain the amount.

(5) The right of a landlord to retain all or part of a security deposit or pet damage deposit under subsection (4) (a) does not apply if the liability of the tenant is in relation to damage and the landlord's right to claim for damage against a security deposit or a pet damage deposit has been extinguished under section 24 (2) [*landlord failure to meet start of tenancy condition report requirements*] or 36 (2) [*landlord failure to meet end of tenancy condition report requirements*].

(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

(7) If a landlord is entitled to retain an amount under subsection (3) or (4), a pet damage deposit may be used only for damage caused by a pet to the residential property, unless the tenant agrees otherwise.

(8) For the purposes of subsection (1) (c), the landlord must use a service method described in section 88 (c), (d) or (f) [*service of documents*] or give the deposit personally to the tenant.

### **Landlord may retain deposits if forwarding address not provided**

**39** Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

(a) the landlord may keep the security deposit or the pet damage deposit, or both, and

(b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

## **Part 3 — What Rent Increases Are Allowed**

### **Meaning of "rent increase"**

**40** In this Part, "**rent increase**" does not include an increase in rent 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: additional occupants*].

### **Rent increases**

**41** A landlord must not increase rent except in accordance with this Part.

## **Timing and notice of rent increases**

- 42** (1) A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:
- (a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first established under the tenancy agreement;
  - (b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.
- (2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.
- (3) A notice of a rent increase must be in the approved form.
- (4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.

## **Amount of rent increase**

- 43** (1) A landlord may impose a rent increase only up to the amount
- (a) calculated in accordance with the regulations,
  - (b) ordered by the director on an application under subsection (3), or
  - (c) agreed to by the tenant in writing.
- (2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.
- (3) In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.
- (4) [Repealed 2006-35-66.]
- (5) If a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase.

# **Part 4 — How to End a Tenancy**

## **Division 1 — Ending a Tenancy**

### **How a tenancy ends**

- 44** (1) A tenancy ends only if one or more of the following applies:
- (a) the tenant or landlord gives notice to end the tenancy in

accordance with one of the following:

- (i) section 45 [*tenant's notice*];
- (ii) section 46 [*landlord's notice: non-payment of rent*];
- (iii) section 47 [*landlord's notice: cause*];
- (iv) section 48 [*landlord's notice: end of employment*];
- (v) section 49 [*landlord's notice: landlord's use of property*];
- (vi) section 49.1 [*landlord's notice: tenant ceases to qualify*];
- (vii) section 50 [*tenant may end tenancy early*];

(b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;

(c) the landlord and tenant agree in writing to end the tenancy;

(d) the tenant vacates or abandons the rental unit;

(e) the tenancy agreement is frustrated;

(f) the director orders that the tenancy is ended.

(2) [Repealed 2003-81-37.]

(3) If, on the date specified as the end of a fixed term tenancy agreement that does not require the tenant to vacate the rental unit on that date, the landlord and tenant have not entered into a new tenancy agreement, the landlord and tenant are deemed to have renewed the tenancy agreement as a month to month tenancy on the same terms.

## Tenant's notice

**45** (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy

agreement.

(3) If a landlord has failed to comply with a material term of the tenancy agreement or, in relation to an assisted or supported living tenancy, of the service agreement, and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

(4) A notice to end a tenancy given under this section must comply with section 52 *[form and content of notice to end tenancy]*.

### **Landlord's notice: non-payment of rent**

**46** (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

(2) A notice under this section must comply with section 52 *[form and content of notice to end tenancy]*.

(3) A notice under this section has no effect if the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from rent.

(4) Within 5 days after receiving a notice under this section, the tenant may

- (a) pay the overdue rent, in which case the notice has no effect, or
- (b) dispute the notice by making an application for dispute resolution.

(5) If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

- (b) must vacate the rental unit to which the notice relates by that date.

(6) If

- (a) a tenancy agreement requires the tenant to pay utility charges to the landlord, and

- (b) the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them,

the landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

### **Landlord's notice: cause**

- 47** (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:
- (a) the tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
  - (b) the tenant is repeatedly late paying rent;
  - (c) there are an unreasonable number of occupants in a rental unit;
  - (d) the tenant or a person permitted on the residential property by the tenant has
    - (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, or
    - (iii) put the landlord's property at significant risk;
  - (e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
    - (i) has caused or is likely to cause damage to the landlord's property,
    - (ii) 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
    - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
  - (f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;
  - (g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) [*obligations to repair and maintain*], within a reasonable time;
  - (h) the tenant
    - (i) has failed to comply with a material term, and
    - (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;
  - (i) the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34 [*assignment and subletting*];
  - (j) the tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property;

(k) the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;

(l) the tenant has not complied with an order of the director within 30 days of the later of the following dates:

- (i) the date the tenant receives the order;
- (ii) the date specified in the order for the tenant to comply with the order.

(2) A notice under this section must end the tenancy effective on a date that is

(a) not earlier than one month after the date the notice is received, and

(b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(3) A notice under this section must comply with section 52 [*form and content of notice to end tenancy*].

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

### **Landlord's notice: end of employment with the landlord**

**48** (1) A landlord may end the tenancy of a person employed as a caretaker, manager or superintendent of the residential property of which the rental unit is a part by giving notice to end the tenancy if

(a) the rental unit was rented or provided to the tenant for the term of his or her employment,

(b) the tenant's employment as a caretaker, manager or superintendent is ended, and

(c) the landlord intends in good faith to rent or provide the rental unit to a new caretaker, manager or superintendent.

(2) An employer may end the tenancy of an employee in respect of a rental unit rented or provided by the employer to the employee to occupy during the term of employment by giving notice to end the tenancy if the employment is ended.

- (3) A notice under this section must end the tenancy effective on a date that is
- (a) not earlier than one month after the date the tenant receives the notice,
  - (b) not earlier than the last day the tenant is employed by the landlord, and
  - (c) the day before the day in the month, or in the other period on which the tenancy is based, that rent, if any, is payable under the tenancy agreement.
- (4) A notice under this section must comply with section 52 [*form and content of notice to end tenancy*].
- (5) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.
- (6) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (5), the tenant
- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
  - (b) must vacate the rental unit by that date.

### **Landlord's notice: landlord's use of property**

**49** (1) In this section:

**"close family member"** means, in relation to an individual,

- (a) the individual's father, mother, spouse or child, or
- (b) the father, mother or child of that individual's spouse;

**"family corporation"** means a corporation in which all the voting shares are owned by

- (a) one individual, or
- (b) one individual plus one or more of that individual's brother, sister or close family members;

**"landlord"** means

- (a) for the purposes of subsection (3), an individual who
  - (i) at the time of giving the notice, has a reversionary interest in the rental unit exceeding 3 years, and
  - (ii) holds not less than 1/2 of the full reversionary interest, and
- (b) for the purposes of subsection (4), a family corporation that
  - (i) at the time of giving the notice, has a reversionary interest

in the rental unit exceeding 3 years, and

(ii) holds not less than 1/2 of the full reversionary interest;

**"purchaser"**, for the purposes of subsection (5), means a purchaser that has agreed to purchase at least 1/2 of the full reversionary interest in the rental unit.

(2) Subject to section 51 [*tenant's compensation: section 49 notice*], a landlord may end a tenancy for a purpose referred to in subsection (3), (4), (5) or (6) by giving notice to end the tenancy effective on a date that must be

- (a) not earlier than 2 months after the date the tenant receives the notice,
- (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
- (c) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

(3) A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

(4) A landlord that is a family corporation may end a tenancy in respect of a rental unit if a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

(5) A landlord may end a tenancy in respect of a rental unit if

- (a) the landlord enters into an agreement in good faith to sell the rental unit,
- (b) all the conditions on which the sale depends have been satisfied, and
- (c) the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:
  - (i) the purchaser is an individual and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit;
  - (ii) the purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

(6) A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:

- (a) demolish the rental unit;

(b) renovate or repair the rental unit in a manner that requires the rental unit to be vacant;

(c) convert the residential property to strata lots under the *Strata Property Act*;

(d) convert the residential property into a not for profit housing cooperative under the *Cooperative Association Act*;

(e) convert the rental unit for use by a caretaker, manager or superintendent of the residential property;

(f) convert the rental unit to a non-residential use.

(7) A notice under this section must comply with section 52 [*form and content of notice to end tenancy*].

(8) A tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice.

(9) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (8), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

### **Landlord's notice: tenant ceases to qualify for rental unit**

**49.1** (1) In this section:

**"public housing body"** means a prescribed person or organization;

**"subsidized rental unit"** means a rental unit that is

(a) operated by a public housing body, or on behalf of a public housing body, and

(b) occupied by a tenant who was required to demonstrate that the tenant, or another proposed occupant, met eligibility criteria related to income, number of occupants, health or other similar criteria before entering into the tenancy agreement in relation to the rental unit.

(2) Subject to section 50 [*tenant may end tenancy early*] and if provided for in the tenancy agreement, a landlord may end the tenancy of a subsidized rental unit by giving notice to end the tenancy if the tenant or other occupant, as applicable, ceases to qualify for the rental unit.

(3) Unless the tenant agrees in writing to an earlier date, a notice under this section must end the tenancy on a date that is

(a) not earlier than 2 months after the date the notice is received,

(b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and

(c) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

(4) A notice under this section must comply with section 52.

(5) A tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice.

(6) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (5), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

### **Tenant may end tenancy early following notice under certain sections**

**50** (1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 [*landlord's use of property*] or 49.1 [*landlord's notice: tenant ceases to qualify*], the tenant may end the tenancy early by

(a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and

(b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.

(3) A notice under this section does not affect the tenant's right to compensation under section 51 [*tenant's compensation: section 49 notice*].

### **Tenant's compensation: section 49 notice**

**51** (1) A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

(2) In addition to the amount payable under subsection (1), if

(a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or

(b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,

the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

### **Form and content of notice to end tenancy**

**52** In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form.

### **Incorrect effective dates automatically changed**

**53** (1) If a landlord or tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with subsection (2) or (3), as applicable.

(2) If the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section.

(3) In the case of a notice to end a tenancy, other than a notice under section 45 (3) [*tenant's notice: landlord breach of material term*], 46 [*landlord's notice: non-payment of rent*] or 50 [*tenant may end tenancy early*], if the effective date stated in the notice is any day other than the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, the effective date is deemed to be the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement

(a) that complies with the required notice period, or

(b) if the landlord gives a longer notice period, that complies with that longer notice period.

## **Division 2 — Order of Possession of Rental Unit**

### **Order of possession for the tenant**

**54** (1) A tenant who has entered into a tenancy agreement with a landlord may request an order of possession of the rental unit by making an application for dispute resolution.

(2) The director may grant an order of possession to a tenant under this section before or after the date on which the tenant is entitled to occupy the rental unit under the tenancy agreement, and the order is effective on the date specified by the director.

(3) The date specified under subsection (2) may not be earlier than the date the tenant is entitled to occupy the rental unit.

### **Order of possession for the landlord**

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(a) a notice to end the tenancy has been given by the tenant;

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;

(c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term;

(d) the landlord and tenant have agreed in writing that the tenancy is ended.

(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

(4) Despite section 61 [*setting down dispute for hearing*], in the circumstances described in subsection (2) (b), the director may, without holding a hearing,

- (a) grant an order of possession, and
- (b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

### **Application for order ending tenancy early**

**56** (1) A landlord may make an application for dispute resolution to request an order

- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
- (b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

- (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
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

## Order of possession: tenancy frustrated

**56.1** (1) A landlord may make an application for dispute resolution requesting an order

- (a) ending a tenancy because
  - (i) the rental unit is uninhabitable, or
  - (ii) the tenancy agreement is otherwise frustrated, and
- (b) granting the landlord an order of possession of the rental unit.

(2) If the director is satisfied that a rental unit is uninhabitable or the tenancy agreement is otherwise frustrated, the director may make an order

- (a) deeming the tenancy agreement ended on the date the director considers that performance of the tenancy agreement became impossible, and
- (b) specifying the effective date of the order of possession.

## What happens if a tenant does not leave when tenancy ended

**57** (1) In this section:

**"new tenant"** means a tenant who has entered into a tenancy agreement in respect of a rental unit but who is prevented from occupying the rental unit by an overholding tenant;

**"overholding tenant"** means a tenant who continues to occupy a rental unit after the tenant's tenancy is ended.

(2) The landlord must not take actual possession of a rental unit that is occupied by an overholding tenant unless the landlord has a writ of possession issued under the Supreme Court Civil Rules.

(3) A landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the rental unit after the tenancy is ended.

(4) If a landlord is entitled to claim compensation from an overholding tenant under subsection (3) and a new tenant brings proceedings against the landlord to enforce his or her right to possess or occupy the rental unit that is occupied by the overholding tenant, the landlord may apply to add the overholding tenant as a party to the proceedings.

## Part 5 — Resolving Disputes

### Division 1 — Dispute Resolution Proceedings

#### Determining disputes

- 58** (1) Except as restricted under this Act, 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 any of the following:
- (a) rights, obligations and prohibitions under this Act;
  - (b) rights and obligations under the terms of a tenancy agreement that
    - (i) are required or prohibited under this Act, or
    - (ii) relate to
      - (A) the tenant's use, occupation or maintenance of the rental unit, or
      - (B) the use of common areas or services or facilities.
- (2) Except as provided in subsection (4), if the director receives an application under subsection (1), the director must determine the dispute unless
- (a) the claim is for an amount that is more than the monetary limit for claims under the *Small Claims Act*,
  - (b) the application was not made within the applicable period specified under this Act, or
  - (c) the dispute is linked substantially to a matter that is before the Supreme Court.
- (3) Except as provided in subsection (4), a court does not have and must not exercise any jurisdiction in respect of a matter that must be submitted for determination by the director under this Act.
- (4) The Supreme Court may
- (a) on application, hear a dispute referred to in subsection (2) (a) or (c), and
  - (b) on hearing the dispute, make any order that the director may make under this Act.
- (5) The *Commercial Arbitration Act* does not apply to a dispute resolution proceeding.

### Starting proceedings

- 59** (1) [Repealed 2006-35-83.]
- (2) An application for dispute resolution must
- (a) be in the applicable approved form,
  - (b) include full particulars of the dispute that is to be the subject of the dispute resolution proceedings, and
  - (c) be accompanied by the fee prescribed in the regulations.

- (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.
- (4) The director may waive or reduce the fee if satisfied that
- (a) the applicant cannot reasonably afford to pay the fee, or
  - (b) the circumstances do not warrant the fee being collected.
- (5) The director may refuse to accept an application for dispute resolution if
- (a) in the director's opinion, the application does not disclose a dispute that may be determined under this Part,
  - (b) the applicant owes outstanding fees under this Act to the government, or
  - (c) the application does not comply with subsection (2).
- (6) An individual occupying a room in a residential hotel may make an application for dispute resolution, without notice to any other party, requesting an interim order that this Act applies to that living accommodation.

### **Latest time application for dispute resolution can be made**

- 60** (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.
- (2) Despite the *Limitation Act*, if an application for dispute resolution is not made within the 2 year period, a claim arising under this Act or the tenancy agreement in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3).
- (3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this Act, the other party to the dispute may make an application for dispute resolution in respect of a different dispute between the same parties after the applicable limitation period but before the dispute resolution proceeding in respect of the first application is concluded.

### **Setting down dispute for hearing**

- 61** If an application for dispute resolution is properly completed and is accepted by the director, the director must set the matter down for a hearing and,
- (a) if the hearing is to be oral, specify the date, time and place of the hearing, and
  - (b) if the hearing is to be in writing, specify when written submissions are due.

## Director's authority respecting dispute resolution proceedings

- 62** (1) The director has authority to determine
- (a) disputes in relation to which the director has accepted an application for dispute resolution, and
  - (b) any matters related to that dispute that arise under this Act or a tenancy agreement.
- (2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.
- (3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.
- (4) The director may dismiss all or part of an application for dispute resolution if
- (a) there are no reasonable grounds for the application or part,
  - (b) the application or part does not disclose a dispute that may be determined under this Part, or
  - (c) the application or part is frivolous or an abuse of the dispute resolution process.
- (5) [Repealed 2006-35-86.]

## Opportunity to settle dispute

- 63** (1) The director may assist the parties, or offer the parties an opportunity, to settle their dispute.
- (2) If the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or an order.

## Dispute resolution proceedings generally

- 64** (1) [Repealed 2006-35-88.]
- (2) The director must make each decision or order on the merits of the case as disclosed by the evidence admitted and is not bound to follow other decisions under this Part.
- (3) Subject to the rules of procedure established under section 9 (3) [*director's powers and duties*], the director may
- (a) deal with any procedural issue that arises,
  - (b) make interim or temporary orders, and
  - (c) amend an application for dispute resolution or permit an

application for dispute resolution to be amended.

(4) If, in the director's opinion, another tenant of a landlord who is a party to a dispute resolution proceeding will be or is likely to be materially affected by the determination of the dispute, the director may

(a) order that the other tenant be given notice of the proceeding, and

(b) provide that other tenant with an opportunity to be heard in the proceedings.

### **Director's orders: breach of Act, regulations or tenancy agreement**

**65** (1) Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may make any of the following orders:

(a) that a tenant must pay rent to the director, who must hold the rent in trust or pay it out, as directed by the director, for the costs of complying with this Act, the regulations or a tenancy agreement in relation to maintenance or repairs or services or facilities;

(b) that a tenant must deduct an amount from rent to be expended on maintenance or a repair, or on a service or facility, as ordered by the director;

(c) that any money paid by a tenant to a landlord must be

(i) repaid to the tenant,

(ii) deducted from rent, or

(iii) treated as a payment of an obligation of the tenant to the landlord other than rent;

(d) that any money owing by a tenant or a landlord to the other must be paid;

(e) that personal property seized or received by a landlord contrary to this Act or a tenancy agreement must be returned;

(f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;

(g) that a tenancy agreement may be assigned or a rental unit may be sublet if the landlord's consent has been unreasonably withheld contrary to section 34 (2) [*assignment and subletting*].

(2) The director, in accordance with the regulations, must recover from a trust referred to in subsection (1) (a) the costs incurred in carrying out the order referred to in that subsection.

(3) When the purposes of an order referred to in subsection (1) (a) have been

accomplished, the director must pay to the landlord, in accordance with the regulations, any amount of rent remaining in the trust, together with interest if interest is payable under the regulations.

### **Director's orders: changing time limits**

- 66** (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59 (3) [*starting proceedings*] or 81 (4) [*decision on application for review*].
- (2) Despite subsection (1), the director may extend the time limit established by section 46 (4) (a) [*landlord's notice: non-payment of rent*] for a tenant to pay overdue rent only in one of the following circumstances:
- (a) the extension is agreed to by the landlord;
  - (b) the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director.
- (3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

### **Director's orders: compensation for damage or loss**

- 67** Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

### **Director's orders: notice to end tenancy**

- 68** (1) If a notice to end a tenancy does not comply with section 52 [*form and content of notice to end tenancy*], the director may amend the notice if satisfied that
- (a) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and
  - (b) in the circumstances, it is reasonable to amend the notice.
- (2) Without limiting section 62 (3) [*director's authority respecting dispute resolution proceedings*], the director may, in accordance with this Act,
- (a) order that a tenancy ends on a date other than the effective date shown on the notice to end the tenancy, or
  - (b) set aside or amend a notice given under this Act that does not comply with the Act.

### **Director's orders: rent increases**

**69** If the director is satisfied that circumstances prescribed for the purposes of section 43 (3) [*amount of rent increase*] apply, the director may order that a landlord is permitted to increase rent by an amount that is

- (a) greater than the amount calculated under the regulations for the purpose of section 43 (1) (a), and
- (b) not greater than the maximum rent increase authorized by the regulations prescribed for the purpose of this section.

### **Director's orders: landlord's right to enter rental unit**

**70** (1) The director, by order, may suspend or set conditions on a landlord's right to enter a rental unit under section 29 [*landlord's right to enter rental unit restricted*].

(2) If satisfied that a landlord is likely to enter a rental unit other than as authorized under section 29, the director, by order, may

- (a) authorize the tenant to change the locks, keys or other means that allow access to the rental unit, and
- (b) prohibit the landlord from replacing those locks or obtaining keys or by other means obtaining entry into the rental unit.

### **Director's orders: delivery and service of documents**

**71** (1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

- (a) that a document must be served in a manner the director considers necessary, despite sections 88 [*how to give or serve documents generally*] and 89 [*special rules for certain documents*];
- (b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;
- (c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

### **Director's orders: fees and monetary orders**

**72** (1) The director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.

(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

### **Director may hear disputes together**

**73** (1) If 2 or more applications for dispute resolution are accepted in respect of related disputes with the same landlord, the director may hear the disputes at the same time.

(2) If 2 or more applications for dispute resolution are accepted in respect of disputes between the same landlord and tenant, the director may hear the disputes together.

### **How the hearing may be conducted**

**74** (1) Subject to the rules of procedure established under section 9 (3) [*director's powers and duties*], the director may conduct a hearing under this Division in the manner he or she considers appropriate.

(2) The director may hold a hearing

(a) in person,

(b) in writing,

(c) by telephone, video conference or other electronic means, or

(d) by any combination of the methods under paragraphs (a) to (c).

(3) The director may administer oaths for the purposes of this Act.

(4) A party to a dispute resolution proceeding may be represented by an agent or a lawyer.

### **Rules of evidence do not apply**

**75** The director may admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the director considers to be

(a) necessary and appropriate, and

(b) relevant to the dispute resolution proceeding.

### **Director may require persons to attend and produce documents**

**76** (1) On the request of a party or on the director's own initiative, the director

may issue a summons requiring a person

- (a) to attend a hearing under this Division and give evidence, or
- (b) to produce before the director documents or any other thing relating to the subject matter of the dispute.

(2) A party who requests that a summons be issued under subsection (1) must provide conduct money for the witness in accordance with the rules of procedure established under section 9 (3) [*director's powers and duties*].

(3) If a person named in and served with a summons under subsection (1) does not comply with the summons, the person is liable, on application to the Supreme Court, to be committed for contempt as if in breach of a judgment or an order of the Supreme Court.

### **Director's decision**

**77** (1) A decision of the director must

- (a) be in writing,
- (b) be signed and dated by the director,
- (c) include the reasons for the decision, and
- (d) be given promptly and in any event within 30 days after the proceedings conclude.

(2) The director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30 day period in subsection (1) (d).

(3) Except as otherwise provided in this Act, a decision or an order of the director is final and binding on the parties.

### **Correction or clarification of decisions or orders**

**78** (1) Subject to subsection (2), the director may, with or without a hearing,

- (a) correct typographic, grammatical, arithmetic or other similar errors in his or her decision or order,
- (b) clarify the decision or order, and
- (c) deal with an obvious error or inadvertent omission in the decision or order.

(1.1) The director may take the steps described in subsection (1)

- (a) on the director's own initiative, or
- (b) at the request of a party, which request, for subsection (1) (b) and (c), must be made within 15 days after the decision or order is received.

(2) A request referred to in subsection (1.1) (b) may be made without notice to another party, but the director may order that another party be given notice.

(3) The director must not act under this section unless the director considers it just and reasonable to do so in all the circumstances.

## **Division 1.1 — Application of *Administrative Tribunals Act***

### **Application of the *Administrative Tribunals Act***

**78.1** Sections 1, 44, 46.3, 48, 56 to 58 and 61 of the *Administrative Tribunals Act* apply to the director as if the director were a tribunal and to dispute resolution proceedings under Division 1 of this Part and reviews under Division 2 of this Part.

## **Division 2 — Review of Decisions and Orders**

### **Application for review of director's decision or order**

**79** (1) A party to a dispute resolution proceeding may apply to the director for a review of the director's decision or order.

(2) A decision or an order of the director may be reviewed only on one or more of the following grounds:

(a) a party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control;

(b) a party has new and relevant evidence that was not available at the time of the original hearing;

(c) a party has evidence that the director's decision or order was obtained by fraud.

(3) An application for review of a decision or order of the director

(a) must be made in the approved form and in the manner approved by the director,

(b) must be accompanied by the fee prescribed in the regulations,

(c) must be accompanied by full particulars of the grounds for review and the evidence on which the applicant intends to rely, and

(d) may be made without notice to any other party.

(4) The director may waive or reduce the fee if satisfied that

(a) the applicant cannot reasonably afford to pay the fee, or

(b) the circumstances do not warrant the fee being collected.

(5) The director may refuse to accept an application for review of a decision or

order of the director if the application does not comply with subsection (3).

(6) [Repealed 2006-35-97.]

(7) A party to a dispute resolution proceeding may make an application under this section only once in respect of the proceedings.

### **Time limit to apply for a review**

**80** A party must make an application for review of a decision or order of the director within whichever of the following periods applies:

- (a) within 2 days after a copy of the decision or order is received by the party, if the decision or order relates to
  - (i) the unreasonable withholding of consent, contrary to section 34 (2) [*assignment and subletting*], by a landlord to an assignment or subletting,
  - (ii) a notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], or
  - (iii) an order of possession under section 54 [*order of possession for the tenant*], 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*];
- (b) within 5 days after a copy of the decision or order is received by the party, if the decision or order relates to
  - (i) repairs or maintenance under section 32 [*obligations to repair and maintain*],
  - (ii) services or facilities under section 27 [*terminating or restricting services or facilities*], or
  - (iii) a notice to end a tenancy agreement other than under section 46 [*landlord's notice: non-payment of rent*];
- (c) within 15 days after a copy of the decision or order is received by the party, for a matter not referred to in paragraph (a) or (b).

### **Decision on application for review**

**81** (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:

- (a) the issue raised by the application can be dealt with by a correction, clarification or otherwise under section 78 [*correction or clarification of decisions or orders*];
- (b) the application
  - (i) does not give full particulars of the issues submitted for

review or of the evidence on which the applicant intends to rely,

(ii) does not disclose sufficient evidence of a ground for the review,

(iii) discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied, or

(iv) is frivolous or an abuse of process;

(c) the applicant fails to pursue the application diligently or does not follow an order made in the course of the review.

(2) A decision under subsection (1) may be based solely on the written submissions of the applicant.

(3) The director may order that a decision or order in relation to which a review has been requested be suspended, with or without conditions, until the review has been completed and a decision given to the parties.

(4) Within 3 days of receiving a decision to proceed with a review, or within a different period specified by the director, the applicant must give the other party a copy of the decision and of any order giving effect to the decision.

### **Review of director's decision or order**

**82** (1) Unless the director dismisses or refuses to consider an application for a review under section 81, the director must review the decision or order.

(2) The director may conduct a review

(a) based solely on the record of the original dispute resolution proceeding and the written submissions of the parties, if any,

(b) by reconvening the original hearing, or

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

### **Repealed**

**83** [Repealed 2006-35-102.]

## **Division 3 — Enforcement of Director's Orders**

### **Director's orders may be filed in Supreme Court**

**84** (1) A decision or an order of the director may be filed in the Supreme Court and enforced as a judgment or an order of that court after

(a) a review of the director's decision or order has been

(i) refused or dismissed, or

(ii) concluded, or

(b) the time period to apply for a review has expired.

(2) Subsection (1) applies whether the decision or order is interim, temporary or final.

### **Exclusive jurisdiction of director**

**84.1** (1) The director has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in a dispute resolution proceeding or in a review under Division 2 of this Part and to make any order permitted to be made.

(2) A decision or order of the director on a matter in respect of which the director has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

### **Certain director's orders may be filed in Provincial Court**

**85** (1) This section applies to a decision or an order of the director if

(a) the decision or order is for financial compensation or the return of personal property, and

(b) the amount required to be paid under the decision or order, excluding interest and costs, or the value of the personal property is within the monetary limit for claims under the *Small Claims Act*.

(2) A decision or an order described in subsection (1) may be filed in the Provincial Court and enforced as a judgment or an order of that court after

(a) a review of the director's decision or order has been

(i) refused or dismissed, or

(ii) concluded, or

(b) the time period to apply for a review has expired.

## **Division 4**

### **Repealed**

**86** [Repealed 2006-35-107.]

### **Repealed**

**86.1–86.3** [Repealed 2006-35-107.]

### **Repealed**

**87** [Repealed 2006-35-107.]

## Part 6 — General Matters

### Division 1 — How to Give or Serve Documents

#### How to give or serve documents generally

**88** All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j) by any other means of service prescribed in the regulations.

#### Special rules for certain documents

**89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;

(c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

(2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

(a) by leaving a copy with the tenant;

(b) by sending a copy by registered mail to the address at which the tenant resides;

(c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;

(d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

(3) A notice under section 94.21 [*notice of administrative penalty*] must be given in a manner referred to in subsection (1).

### **When documents are considered to have been received**

**90** A document given or served in accordance with section 88 [*how to give or serve documents generally*] or 89 [*special rules for certain documents*] is deemed to be received as follows:

(a) if given or served by mail, on the 5th day after it is mailed;

(b) if given or served by fax, on the 3rd day after it is faxed;

(c) if given or served by attaching a copy of the document to a door or other place, on the 3rd day after it is attached;

(d) if given or served by leaving a copy of the document in a mail box or mail slot, on the 3rd day after it is left.

### **Division 2 — Application of Other Law**

#### **Common law applies**

**91** Except as modified or varied under this Act, the common law respecting landlords and tenants applies in British Columbia.

### ***Frustrated Contract Act***

**92** The *Frustrated Contract Act* and the doctrine of frustration of contract apply to tenancy agreements.

### **Obligations pass with transfer or assignment of land**

**93** The obligations of a landlord under this Act with respect to a security deposit or a pet damage deposit run with the land or reversion.

### **Court proceedings affecting tenants**

**94** Despite any other enactment, no order of a court in a proceeding involving a foreclosure, an estate or a matrimonial dispute or another proceeding that affects possession of a rental unit is enforceable against a tenant of the rental unit unless the tenant was a party to the proceeding.

## **Division 2.1 — Administrative Penalties**

### **Administrative penalties**

**94.1** (1) Subject to the regulations, the director may order a person to pay a monetary penalty if the director is satisfied on a balance of probabilities that the person has

- (a) contravened a provision of this Act or the regulations, or
- (b) failed to comply with a decision or order of the director.

(2) Before the director imposes an administrative penalty on a person, the director must

- (a) give the person an opportunity to be heard, and
- (b) consider all the following:
  - (i) previous enforcement actions for contraventions of a similar nature by the person;
  - (ii) the gravity and magnitude of the contravention;
  - (iii) the extent of the harm to others resulting from the contravention;
  - (iv) whether the contravention was repeated or continuous;
  - (v) whether the contravention was deliberate;
  - (vi) any economic benefit derived by the person from the contravention;
  - (vii) the person's efforts to correct the contravention.

(3) A penalty imposed under this section must be paid within the prescribed time.

(4) Instead of enforcing a penalty under subsection (1), the director, subject to the regulations, may enter into an agreement with the person who would otherwise be liable for the penalty.

(5) An agreement under subsection (4) may provide, in accordance with the regulations, for the reduction or cancellation of the penalty subject to the terms and conditions the director considers necessary or desirable.

(6) An agreement under subsection (4) must specify the time for performing the terms and conditions and, if the person fails to perform those terms and conditions by the date specified, the penalty ordered under subsection (1) is due and payable on the date of the failure.

(7) Neither the director's decision whether to enter into an agreement under subsection (4), nor the terms and conditions of such an agreement, may be the subject of an application for dispute resolution.

(8) If a corporation contravenes the Act or the regulations or fails to comply with a decision or order as described under subsection (1), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the contravention or failure is also liable under this section even though the corporation is liable for or pays a monetary penalty under this section.

### **Charging offence or imposing administrative penalty as alternatives**

**94.11** (1) A person who has been charged with an offence under this Act may not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge.

(2) If the director imposes an administrative penalty on or enters into an agreement with a person, a prosecution for an offence under this Act in respect of the contravention or failure may not be brought against the person.

### **Amount of penalty**

**94.2** (1) A monetary penalty imposed under section 94.1 (1) may not exceed \$5 000.

(2) If a contravention or failure referred to in section 94.1 occurs over more than one day or continues for more than one day, separate monetary penalties, each not exceeding the maximum under subsection (1) of this section, may be imposed for each day the contravention or failure continues.

### **Notice of administrative penalty**

**94.21** If the director imposes an administrative penalty on a person, the director must give to the person a notice specifying each of the following:

(a) the contravention or failure to which the penalty relates;

- (b) the amount of the penalty;
- (c) the date by which the penalty must be paid;
- (d) the person's right to have the director reconsider the decision imposing the penalty.

### **Review of administrative penalty**

**94.3** (1) A person who receives a notice under section 94.21 may apply to the director for a review of the matters set out in the notice.

(2) Division 2 [*Reviews of Decisions and Orders*] of Part 5 applies to a review referred to in subsection (1).

### **Recovery of administrative penalties**

**94.31** (1) An administrative penalty imposed under this Part is a debt due to the government.

(2) If a person fails to pay an administrative penalty as required by a notice under section 94.21 and the time for requesting a review under section 94.3 has expired, the director may file a certificate in a court that has jurisdiction and, upon filing, the certificate has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court with which it is filed.

(3) A certificate under subsection (2) must be in the approved form, be signed by the director and set out

- (a) the name of the person who is liable for the penalty,
- (b) the contravention or failure in relation to which the penalty is imposed, and
- (c) the amount of the penalty.

## **Division 3 — Offences, Penalties and Regulations**

### **Offences and penalties**

**95** (1) A person who contravenes any of the following provisions commits an offence and is liable on conviction to a fine of not more than \$5 000:

- (a) section 13 (1), (2) or (3) [*requirements for tenancy agreements*];
- (a.1) section 15 [*no application or processing fees*];
- (b) section 19 (1) [*limits on amount of deposits*];
- (c) section 20 (a), (b), (c), (d) or (e) [*landlord prohibitions respecting deposits*];
- (d) section 26 (3) [*seizing or interfering with access to tenant's*

*property];*

(e) section 27 (1) *[terminating or restricting services or facilities];*

(f) section 29 *[landlord's right to enter a rental unit restricted];*

(g) section 30 (1) or (2) *[tenant's right of access protected];*

(h) section 31 (1) or (1.1) *[prohibitions on changes to locks];*

(i) section 34 (3) *[assignment and subletting];*

(j) section 38 (1) *[return of security deposit and pet damage deposit];*

(k) section 42 (1) or (2) *[timing and notice of rent increases];*

(l) section 43 (1) *[amount of rent increase];*

(m) section 57 (2) *[what happens if a tenant does not leave when tenancy ended].*

(2) A person who coerces, threatens, intimidates or harasses a tenant or landlord

(a) in order to deter the tenant or landlord from making an application under this Act, or

(b) in retaliation for seeking or obtaining a remedy under this Act

commits an offence and is liable on conviction to a fine of not more than \$5 000.

(3) A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000.

(4) A person who gives false or misleading information in a proceeding under this Act commits an offence and is liable on conviction to a fine of not more than \$5 000.

(5) A tenant, or a person permitted on residential property by a tenant, who intentionally, recklessly or negligently causes damage to the residential property commits an offence and is liable on conviction to a fine of not more than \$5 000.

(6) If a person convicted of an offence under this Act has failed to comply with or contravened this Act, the court, in addition to imposing a fine, may order the person to comply with or to cease contravening this Act.

(7) Section 5 of the *Offence Act* does not apply to this Act or the regulations.

### **Limitation period for prosecuting offences**

**96** (1) A prosecution of an offence under this Act must not be commenced more than 2 years after the facts on which the proceeding is based first come to the knowledge of the director.

(2) A document purporting to have been issued by the director, certifying the date on which the director became aware of the facts on which the information is based,

(a) is admissible without proof of the signature or official character of the person appearing to have signed the certificate, and

(b) is proof of the certified facts unless there is evidence to the contrary.

## Investigations

**96.1** (1) The director may conduct investigations to ensure compliance with this Act and the regulations whether or not the director has accepted an application for dispute resolution in relation to the matter.

(2) If an investigation is conducted, the director must make reasonable efforts to give the person under investigation an opportunity to respond.

## Power to make regulations

**97** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) exempting tenancy agreements, rental units or residential property from all or part of this Act;

(b) prescribing the rate of interest payable on security deposits and pet damage deposits;

(c) respecting tenancy agreements, including prescribing

(i) standard terms that must be included in every tenancy agreement, and

(ii) formal requirements for tenancy agreements;

(d) respecting rights and obligations of landlords and tenants that are not inconsistent with this Act, and providing that those rights and obligations must be terms of tenancy agreements;

(e) prescribing a penalty for a breach of a regulation, subject to the restriction that the penalty must not be greater than the maximum penalty referred to in section 95 [*offences and penalties*];

(f) prescribing

(i) the circumstances in which a landlord may consider that a tenant has abandoned personal property,

(ii) the manner in which a landlord may dispose of personal property abandoned by a tenant, and

- (iii) how competing claims on the property are to be resolved;
- (g) prescribing
  - (i) the circumstances in which the purchaser of abandoned personal property acquires a marketable title free of all encumbrances,
  - (ii) how proceeds from disposing of the property are to be dealt with, and
  - (iii) imposing a duty of care on the landlord for that property;
- (h) prescribing the following regarding inspections required under sections 23 [*condition inspection: start of tenancy*] and 35 [*condition inspection: end of tenancy*]:
  - (i) the procedures to be followed in conducting the inspection;
  - (ii) the form, content, completion requirements and use as evidence of a condition inspection report;
  - (iii) the scheduling, and notification to the tenant, of the inspection;
  - (iv) the procedures to be followed in providing the condition inspection report to the tenant;
- (i) defining a word or phrase used but not defined in this Act;
- (j) respecting matters related to reviews under Division 2 of Part 5;
- (k) respecting refundable and non-refundable fees that a landlord may or may not impose on a tenant and limiting the amount of a fee that may be imposed;
- (l) prescribing fees for anything done or any service provided under this Act;
- (m) respecting the return of trust funds collected under section 65 (1) (a) [*director's orders: breach of Act, regulations or tenancy agreement*], including prescribing the circumstances in which interest must be paid on the trust funds and how that interest is to be calculated;
- (n) prescribing calculations for rent increases under section 43 (1) (a) [*amount of rent increase*];
- (o) governing rent increases that may be approved by the director under section 69 [*director's orders: rent increases*] on application under section 43 (3), including
  - (i) prescribing circumstances for the purpose of section 43 (3), and
  - (ii) respecting the maximum rent increase that may be approved by the director under section 69;

(p) prescribing other means of giving or serving documents, including prescribing when documents given or served by those means are deemed to be received;

(p.1) respecting administrative penalties, including, without limiting this,

(i) establishing procedures for providing an opportunity to be heard for the purposes of section 94.1 (2) (a), which need not entail an oral hearing,

(ii) prescribing consequences for failing to appear or provide submissions, as applicable, on an opportunity prescribed under subparagraph (i), which may include, but are not limited to, proceeding in the absence of the person who fails to appear or without their submission, as applicable,

(iii) prescribing time limits for paying administrative penalties,

(iv) the matters that must be considered by the director in establishing a penalty in a particular case,

(v) prescribing a limitation period for imposing an administrative penalty and evidentiary matters in relation to that period,

(vi) respecting agreements, including prescribing terms and conditions, that must be included in an agreement under section 94.1 (4), and

(vii) establishing consequences for failing to pay an administrative penalty which may include, but are not limited to, imposing additional penalties;

(q) for any other purpose for which regulations are contemplated by this Act.

(3) In making regulations under this Act, the Lieutenant Governor in Council may

(a) delegate a matter to a person,

(b) confer a discretion on a person, and

(c) make different regulations for different rental units, residential property or tenancy agreements or for different classes of rental units, residential property or tenancy agreements.

## **Part 7 — Transitional and Consequential Provisions**

### **Meaning of "former Act"**

**98** In this Part, "**former Act**" means the *Residential Tenancy Act*, R.S.B.C. 1996,

c. 406.

## Repealed

**99** [Repealed 2006-35-113.]

## Transitional: start of tenancy condition

**100** (1) Sections 23 [*condition inspection: start of tenancy*] and 24 [*consequences if report requirements not met*] of this Act do not apply to a landlord or tenant in respect of a tenancy that started before January 1, 2004, except as provided in subsection (2).

(2) If, after January 1, 2004, a landlord referred to in subsection (1) allows a tenant referred to in that subsection to keep a pet on the residential property for the first time, sections 23 (2) to (6) and 24 apply to the landlord and tenant but only in respect of any pet damage deposit the landlord requires from the tenant.

## Repealed

**101-102** [Repealed 2006-35-113.]

## Transitional: security deposits

**103** If a landlord holds a security deposit in accordance with the former Act, the security deposit is deemed to be held in accordance with this Act and the provisions of this Act respecting security deposits apply.

## Transitional regulations

**104** (1) The Lieutenant Governor in Council may make regulations considered necessary or advisable to more effectively bring this Act into operation and to facilitate the transition from the operation of the former Act to the operation of this Act, including regulations prescribing the manner in which any transitional question or issue arising because of the repeal of the former Act is to be resolved.

(2) [Spent. 2002-78-104 (2).]

## Transition from arbitrators to director as decision maker

**104.1** (1) Effective on the date this section comes into force, each arbitrator appointed under section 86, as it read immediately before its repeal, is deemed to have been retained under section 9 (2) for a term ending on the date the appointment under section 86 would otherwise have terminated.

(2) Despite section 9.1 (1), a person described in subsection (1) has the powers and duties of the director necessary for the purposes of determining a dispute under Division 1 of Part 5, or a review under Division 2 of Part 5,

delegated to the person under section 9.1 (1).

(3) Subsections (1) and (2) must not be construed as

(a) a termination for the purposes of section 14.9 (3) of the *Public Sector Employers Act*, or

(b) a breach of the service contract related to the appointment of a person to whom subsection (1) applies.

(4) An order of an arbitrator made before the date this section comes into force is deemed to be an order of the director.

## **Spent**

**105–116** [*Consequential amendments and repeal. Spent. 2002-78-105 to 116.*]

## **Commencement**

**117** This Act comes into force by regulation of the Lieutenant Governor in Council.

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