

Housing and natural disasters

Recorded on March 9, 2022

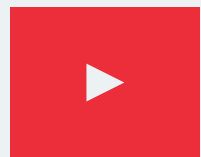


Housing and natural disasters

Recorded on March 9, 2022



Legal Aid BC 



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HOUSING AND NATURAL DISASTERS

PRESENTED BY:

KELLY MELNYK,
SUPERVISING LAWYER
TRU COMMUNITY LEGAL CLINIC

ODETTE DEMPSEY-CAPUTO
SENIOR LAWYER
ELIZABETH FRY LEGAL CLINIC



WE ACKNOWLEDGE THAT WE ARE ON
THE

TRADITIONAL AND UNCEDED TERRITORY
OF THE SƏXWƏPMƏX (SECWEPÉMC)
NATION

TENANTS' RIGHTS

RESIDENTIAL TENANCY ACT



Frustration of Tenancy Agreement (RTA, s 44(1) (e))

- **What does “frustration” mean?**
- **How does that apply in the event of a natural disaster?**

How does this differ from ending the tenancy early (RTA, s 44(1)(c)) or abandoning the tenancy (RTA, s 44(1))?

A landlord can apply for an order of possession as a result of frustration (RTA, s 56.1).



TENANTS' RIGHTS

RESIDENTIAL TENANCY ACT

What rights arise when a tenancy is frustrated?

- **As with the termination of a tenancy in the usual course,
the return of the damage deposit is a key right for tenants.**

But how do you do an inspection on move-out after a natural disaster?

- **You cannot really**

Return of the deposit should occur, as the damage caused is not the fault of the tenant (RTA, s 38)

- **Provide written confirmation of the forwarding address to the landlord.**
- **Within 15 days, you should be receiving the deposit back.**



TENANTS' RIGHTS:

RESIDENTIAL TENANCY ACT



What if the property can be repaired? (RTA, s 32)

What if you make repairs so you can stay?

- **Emergency repairs (RTA, s 33)**

What if the government prohibits access? (RTA, s 47(1)(k))



TENANTS RIGHTS: MANUFACTURED HOME PARK TENANCY ACT



For those owning a manufactured home in a Manufactured Home park, there are problems that are unique to those homeowners.

- MHPTA applies to those who rent pads from a park but own their own manufactured home.

Much like under the RTA, a natural disaster may cause a frustration of the tenancy agreement (MHPTA, s 37(1)(e)).

- This can create more of a problem for manufactured home owners as the tenancy relates to the pad rental and not issues with respect to the home itself.
- A landlord can apply for an order of possession as a result of frustration (MHPTA, s 49.1)



TENANTS RIGHTS: MANUFACTURED HOME PARK TENANCY ACT



Moving the home may be required and this may require some form of security or insurance to move the home from the park (MHPTA, s 29)

Does the tenant already have insurance in place?

Do they want to return to the park?

- **If so, are repairs to services needed? (MHPTA, s 26 – 27)**
- **Is the park in a state such that return is not possible? (MHPTA, s 40(1)(j))**
 - **One month notice, no compensation**

LEGAL REMEDIES



- Remember it is important to keep in contact with your Landlord.
- Bring important documents with you:
 - Tenancy Agreement
 - Tenant Insurance Policy
 - Documentation and Evidence for any upcoming dispute resolution proceeding.
- If there is a dispute between a Landlord and a Tenant they Must apply for Dispute Resolution with the Residential Tenancy Branch even if it is Manufactured home.

DISPUTE RESOLUTION

- This is essential tenant-landlord court
- All residential tenancy issues under \$35,000
- If you are not covered by the Residential Tenancy Act or the Manufactured Home Park Tenancy Act then you must go to Small Claims.
- It costs \$100.00.
- Fees can be waived.
- Losing party pays the fee.
- Done by phone.



Legal Remedies

Apply for dispute resolution if:

- you cannot come to an agreement.
- the landlord does not return the rent or deposits.
- the tenant has stopped paying rent.
- to get access to your unit

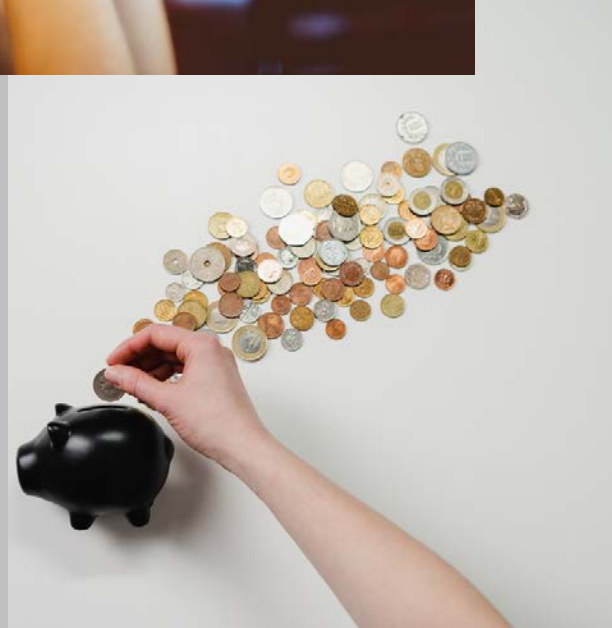


DISPUTE RESOLUTION

If you cannot use all or part of your rental unit you can also apply for dispute resolution to:

- be compensated for the loss of your unit or rental pad
- get your rent reduced
- end the tenancy (if you disagree that the agreement has been frustrated)
- for repairs to the unit to be done

Tenants are responsible for the damage to their own belongings.



DISPUTE RESOLUTION



A tenant MUST apply to have an Eviction ended by:

- 5 days to dispute a 10 Day Eviction Notice;
- 10 days to dispute a One Month Eviction Notice;
- 15 days to dispute a Two Month Eviction Notice; and
- 30 days to dispute a Four Month Eviction Notice.
- A Landlord MUST apply to keep a damage or pet deposit within 15 days or they risk having to pay double the amount.

All other issues can be applied for within two years of the end of the tenant living in the rental.

All small claims must be applied within in two years of the issue arising.

RESOLVING A DISPUTE



What happens if you have a hearing coming up and you are dealing with a disaster?

If you cannot attend the hearing:

- **ask to have the hearing moved (written consent)**
- **ask an advocate, friend or family to attend to hearing to have the date changed**
- **ask the RTB to add a note to your file saying you cannot attend the hearing.**

If you miss the hearing due to a disaster:

- **apply for review consideration from the RTB**

If you do not have the evidence needed:

- **attend your hearing and ask for an adjournment.**

RESOLVING A DISPUTE

You may have to apply for alternative service if you cannot serve by:

- **by person**
- **mail**
- **leaving in a noticeable place or mailbox at the persons address**
- **by fax**
- **or by email (if the other party provided an email for service)**

If you did not get the other sides documents:

- **if it was the notice of hearing and you missed the hearing apply for review consideration.**
- **if you did not receive the notice to end tenancy apply for dispute resolution.**
- **be clear with the other party how they should get the evidence to you.**



WHY DISPUTE ?

Landlords:

- **can get their rent**
- **order of possession**
- **access to the unit**

Tenants:

- **access to the unit**
- **reduced rent**
- **ending of the tenancy**
- **repairs**

NOTE: Landlords do not have to pay for secondary accommodation.



RENT BANK

WHAT IS THE RENT BANK?

- more than lenders.
- help with housing stability and homelessness prevention resources. T
- for clients experiencing financial shocks and housing insecurity
- use a range of approaches to address client's issues holistically



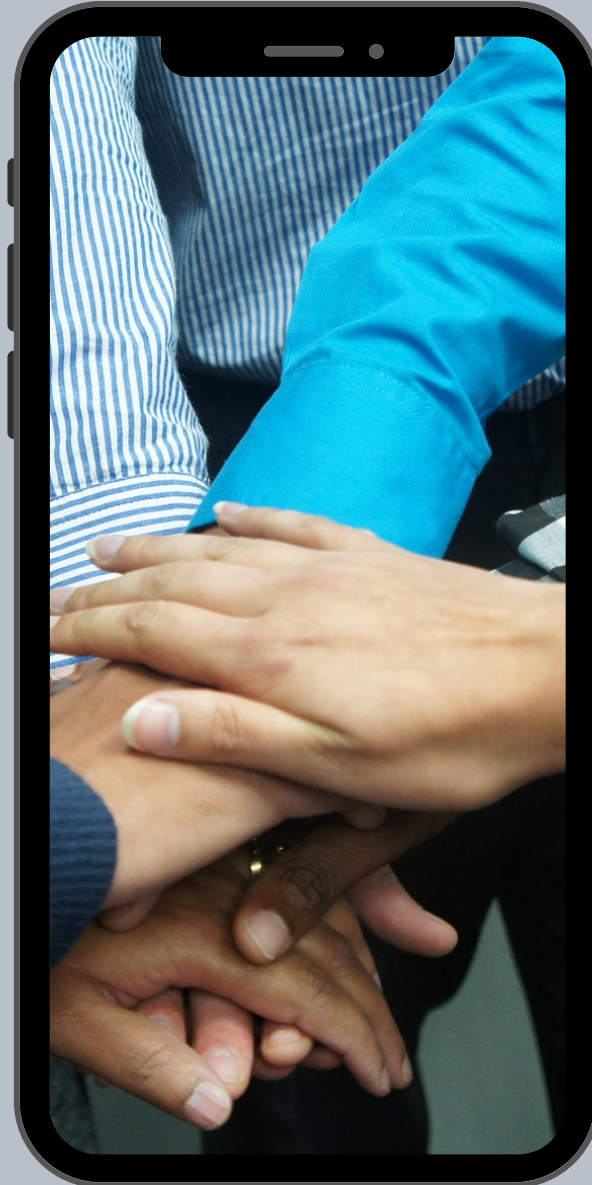
RENT BANK



- provides financial assistance to tenants who:
 - cannot pay rent or essential utilities due to an unexpected short-term crisis (which would include a disaster)
 - help tenants who are unable to pay damage deposit or first month's rent
 - offer critical supports that can lead to more stabilized and sustainable housing

APPLY at: bcrentbank.ca

RESOURCES



TRU COMMUNITY LEGAL CLINIC
(TRU CLC)

ELIZABETH FRY LEGAL CLINIC
(ELC)

TENANCY RESOURCE AND ADVISORY
CENTRE (TRAC)

www.tenantsbc.ca



ANY QUESTIONS?



CONTACT

KELLY MELYNK,
SUPERVISING LAWYER
TRU CLC
PHONE: 778-471-8490

ODETTE DEMPSEY-CAPUTO
SENIOR LAWYER
ELC
PHONE: 250-374-2119 EXT 307