

May 4, 2020

Dear Landlord, Property Manager and/or Housing Provider:

RE: Instituting Guest Bans during COVID-19

It has come to our attention that you have been barring access to occupants and/or guests in a building you own or manage (the “Guest Restriction”). Please be aware that this action is in **direct contravention** of section 30 (1)(b) of the *Residential Tenancy Act* (the “RTA”), which stipulates that: a landlord **must not unreasonably restrict access to residential property by a person permitted on the residential property by that tenant**. This section of the RTA is core to tenants’ right of access and is intended to protect individual tenants and their guests from unreasonable interference by landlords. Both the BC Supreme Court and the BC Court of Appeal have confirmed that building-wide guest bans are not a reasonable restriction under section 30 (1)(b) of the RTA. Specifically, a statutory protection afforded to tenants, like the one under section 30 (1)(b) of the RTA, cannot be eroded by non-statutory policy decisions of landlords, no matter how well-intentioned.

This means that you cannot institute ad-hoc policies that violate the legally protected rights of tenants even though you consider these policies to be in the best interest of public health. **Even in light of the current public health crisis, building-wide guest restrictions remain unlawful.**

On March 30, 2020 the Minister of Public Safety and Solicitor General issued the Residential Tenancy COVID-19 Order (the “COVID-19 Order”) to provide relief measures to both landlords and tenants during the COVID-19 pandemic. Although the COVID-19 Order may allow for restricted access to **common areas** of the residential property by tenants or the guests of tenants in specified circumstances, the COVID-19 Order clearly states that you absolutely **cannot** prevent or interfere with a tenant’s ability to have occupants and/or guests access their rental unit. Section 7(2) of the COVID-19 Order states the following:

“Despite subsection (1), a landlord **must not prevent or interfere with the access of a tenant, another occupant of the rental unit or a tenant’s guest to the tenant’s rental unit.**”

Should you continue to unlawfully impose the Guest Restriction, tenants have the right to apply for dispute resolution through the Residential Tenancy Branch (the “RTB”) to request an order that you comply with section 30 (1)(b) of the RTA and section 7(2) of the COVID-19 Order, as well as monetary compensation for loss of quiet enjoyment. Tenants in the building are also entitled to file a concurrent complaint against you with the Compliance and Enforcement Unit (the “CEU”) of the RTB, a public body whose primary purpose is tenancy law enforcement. The RTA allows the CEU to levy a monetary penalty against a landlord who has contravened the RTA of up to \$5,000 a day for each day the contravention continues.

In addition to pursuing legal rights under the RTA and the COVID-19 Order, **tenants who are adversely impacted by the imposition of the Guest Restriction may also have the right to file a complaint with the BC Human Rights Tribunal.** Many of your tenants may have needs that are currently being adversely impacted by the imposition of the Guest Restriction. For example, a tenant who has a physical and/or mental disability may exclusively rely on family and friends to deliver food, medications, and supplies as well as for safety, stability and support. If family and friends are prevented from visiting tenants in their homes, these very critical needs will go unmet, which may cause irreparable harm to many.

Guest Bans are directly contrary to public health advice concerning people who use drugs (PWUD), a protected group under the Human Rights Code. Vancouver Coastal Health has recommended “that housing providers continue allowing visitors and use other prevention strategies so people do not use alone in their rooms.” The BC Centre for Disease Control has instructed PWUD to “buddy up” when using, to “check in on your buddies regularly” and to rely on buddies for food, harm reduction supplies and medicine. An individual who dies alone in their unit on account of overdose or some other medical complication may ground an action for Wrongful Death under the *Family Compensation Act*.

As a landlord, you have a duty to meet the needs of tenants when those needs relate to personal characteristics that are protected under the BC Human Rights Code (the “Code”). A failure to take positive steps to ensure these needs are met may amount to a discriminatory action that contravenes the Code.

We hope you can resolve this matter amicably and without delay.

Sincerely,

Community Legal Assistance Society



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