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ISSUE 140

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Disaster Preparedness for Tenants

LEILA GEGGIE HURST, STAFF LAWYER



PICTURED: TENANTS WHOSE HOMES WERE DEEMED UNINHABITABLE AFTER A FIRE DAMAGED THEIR JAMES BAY APARTMENT BUILDING JOIN LEILA GEGGIE HURST, FOR A PRESS CONFERENCE AT THE TAPS OFFICE, NOVEMBER 24 2021

If you're a tenant, you may have read news stories about tenants displaced by fire or floods, and wondered "what would happen to me if there was a disaster in my building?" Every situation is different, but here are some common pitfalls to look out for and systemic responses that need improvement.

A disaster could damage part of a building, but leave the rest safe and habitable. If your unit is undamaged and the building is safe your tenancy can continue as before. However, if the disaster makes your unit, or your entire building, unsafe to live in, your tenancy agreement might be *frustrated*. *Frustrated* is a legal term for when an unanticipated event makes it impossible for the tenant and landlord to fulfill their key obligations under the tenancy agreement. In short, the tenancy is over.

Your tenancy isn't necessarily over just because your landlord says it is, though...

ARTICLE CONTINUES ON NEXT PAGE

WHERE TO FIND US

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The TAPS office is located on the traditional, ancestral, and unceded territory of the lək'wəḡən People known today as the Songhees and Esquimalt Nations.

Sometimes, landlords have financial incentives to move old tenants out of a building. If you are renting an apartment for less than the market rate, your landlord may be financially motivated to begin a new tenancy for higher rent.

How can you tell if your tenancy is actually frustrated? Unfortunately, there is currently no neutral, independent body that can enter a building and determine whether it's safe to live in. That means the habitability of a building may end up being determined by engineers and contractors hired by the landlord. Even so, landlords still must follow certain legal processes. They must apply to the Residential Tenancy Branch for an Order of Possession, and prove that the tenancy is indeed frustrated.



IMAGE CREDIT: RAYMOND, YVONNE. 'JAMES BAY TENANTS STILL LOOKING FOR HOUSING AFTER FATAL FIRE' CTV NEWS VANCOUVER ISLAND, NOVEMBER 26, 2021

What does this mean for you as a tenant? First, if a landlord asks you to sign a “mutual agreement to end tenancy” after a disaster, you are not obligated to do so. Signing will end your tenancy rights and could impact your ability to seek compensation. If you believe your apartment is uninhabitable, or if you want to leave your apartment anyway, you can try to negotiate with your landlord for payment in exchange for your agreement to end the tenancy. You are not necessarily entitled to payment – but your landlord may be willing to agree.

Second, you can make sure that your landlord is following the necessary legal processes. If your landlord has locked you out of your building without getting an Order of Possession, and you have reason to believe the building may actually be safe to live in, there may be remedies available. You can seek legal advice or contact the Residential Tenancy Branch for assistance.

Write for Taproot

Taproot welcomes articles, stories, and poetry from readers. Want to share your opinions, experiences, outrage, ideas, and creativity with the community? Submit your writing by email to community@tapsbc.ca, by mail to 828 View St. Victoria BC, V8W 1K2, or by dropping off your submission in person!



What's New at TAPS?

DOUG KING, EXECUTIVE DIRECTOR



TAPS STAFF FROM LEFT TO RIGHT: EMMA WHITE, IRENE MCGEE, ISABELLE DEHLER-HYDE, LEILA GEGGIE HURST, MADYSON POWELL, GILLIAN GAFFNEY, EMILY SPROULE, HANNAH MANG-WOOLEY, ANTONIA MAH, CAITLIN WRIGHT, EMILY ROGERS, DOUG KING

Welcome to the new and re-styled version of our Taproot Newsletter! As we announced a few months back Heidi, our Volunteer Coordinator and Taproot editor, has retired from TAPS after countless years of dedicated service. While Heidi is truly irreplaceable, and so much of the legacy of this newsletter is integrally connected to her, we decided the best thing we could do to honour her work was to make sure Taproot lives on, providing our community with topical legal information, opinions on the most pressing legal issues relating to

poverty, and updates on our work and the services we provide at TAPS. In addition to refreshing the design of Taproot to better match the rebranding we finished last year, in each new edition you'll now find this section, where we provide updates on any changes going on at TAPS.

Sadly one change we have coming up is that our articled student, Irene McGee, left us in February after being offered a job at the law firm of Davison & Company. During the articling period Irene probably worked on every single project we have here at TAPS, and quickly became an integral member of our legal advocate teams. Irene worked on some of our major files like the fire at 118 Menzies Street, and also won a precedent setting case which threw out a "14-day guest rule" for tenants in a social housing building. We wish them all the best on this next journey in their career.

In December, we held our Annual General Meeting, and the TAPS membership elected our slate of directors for the year. Following the AGM the board assigned its executive roles for the year, which will be a year of transition, with our President, Patricia Cochran, and Treasurer, Nathan Cartwright, entering the final year due to term limits. For a current list of our board of directors and their roles you can visit the 'About Us' section of our website.

In other news I am happy to say that our Holiday Ask, which featured a matching challenge from philanthropist Andrew Beckerman, was a great success, with incredible generosity from our supporters and members. In total we were able to raise over \$15,000 toward our legal advocacy and income support programs, which is incredibly important at this time as the pandemic continues to restrict our ability to hold our usual fundraisers like Tapas for TAPS. To all those who donated to us during the holidays we give you our heartfelt and enduring thanks.



Your Rights: Paid Sick Leave

ISABELLE DEHLER-HYDE, EMPLOYMENT STANDARDS LEGAL ADVOCATE

In November 2021, the BC Government introduced mandatory employer-paid sick leave to the Employment Standards Act (ESA). As of January 1st, 2022, all employees covered by the ESA became entitled to five paid days of “injury or illness leave” per year. As this is a whole new area of law, we expect that workers may have some questions about what this means for them.

Who is eligible for paid sick leave?

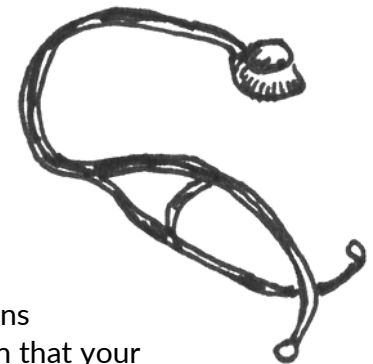
To be eligible for paid injury and illness leave, an employee:

- must be covered by the ESA (which does not cover federally regulated workplaces and many professions with regulatory bodies like lawyers, accountants, engineers, and physicians);
- must have been employed for at least 90 days consecutively; and
- can be full-time, part-time, temporary, or even casual to qualify.

What can I expect from my workplace’s sick leave policy?

The ESA sets the minimum standards for how sick leave policies should be set up. While your employer cannot go lower than these standards, they can always exceed them. Similarly, since Section 3 of the ESA requires that the paid sick leave provisions in a collective agreement meet or exceed the requirements of the Act, this policy applies to unionized and non-unionized employees. With that said, here is the bare minimum that you can expect for your workplace’s sick leave policy:

- A minimum of five paid sick days for all employees and an additional three unpaid sick days per employment year – you cannot be required to use your unpaid days first.
- Sick days cannot be pro-rated, not even for part-time or casual employees.
- Unpaid sick leave cannot be carried over into the following year unless approved by your employer.
- Sick leave should be paid by using the following formula:
(amount earned over the last 30 days) ÷ (number of days worked)
- Sick leave is calculated based on a full workday and the ESA does not consider partial sick days. Consequently, any partial sick time taken off on any given day (even just one hour) qualifies as one day of sick leave unless your employer agrees otherwise.
- This leave is for personal illness or injuries only, so it cannot be taken for wellness days or family/caregiver responsibilities unless your employer agrees otherwise.
- Your employer cannot require advanced notice to use sick leave; however, you should advise your employer as soon as you can that you are sick or injured and cannot attend work.
- Your employer can ask for “reasonably sufficient proof.” What that means depends on the specific circumstances of your situation, but could mean that your employer can ask for a doctor’s note.



Does this apply to unionized workplaces?

Yes. Section 3 of the ESA requires that the paid sick leave provisions in a collective agreement meet or exceed the requirements of the Act. If your workplace has a collective agreement that provides for paid sick leave that is the same or better than what is set out in the ESA, then the collective agreement language prevails. If your workplace has a collective agreement that has no paid sick leave or less than five days, the ESA language is deemed to have become a part of the agreement.

While BC's new paid sick leave policy is an important step in the right direction, TAPS will continue to fight for a 10-day sick leave policy, which was well supported by research and was overwhelmingly the preference of British Columbians.



IMAGE CREDIT: GREEN, KIERNAN. 'BC FEDERATION OF LABOUR URGES 10 PAID SICK DAYS ON FINAL DAY OF PROVINCIAL CONSULTATION.' SAANICH NEWS, 25 OCTOBER 2021

What can I do if my workplace is not providing paid sick leave?

If you are in a non-unionized workplace and your employer refuses to pay you for sick leave or is disciplining you for taking sick time, you can file a complaint with the BC Employment Standards Branch. You can call the BC Employment Standards Branch's information line or a legal advocacy organization in your area to get more information before filing a complaint.

If you are in a unionized workplace, you should reach out to a shop steward or union representative. Note, you cannot file complaints through the BC Employment Standards Branch if you are in a union – you must address your issue through your workplace's union.



If you live in the Capital Regional District and have questions or concerns about your workplaces' sick leave policies (or lack thereof) please contact TAPS at 250-361-3521 or employment@tapsbc.ca

Chat with TAPS' Volunteer Tax Program



GILLIAN GAFFNEY, TAX PROGRAM COORDINATOR

Tax season is almost upon us! Does filing your personal income taxes feel overwhelming? The skilled volunteers of TAPS' Volunteer Tax Project are here to help. We reached out to the coordinator of the tax program for a quick Q & A to answer some common questions:

1
Q: Why should I file my taxes?

A: Filing your taxes is the easiest way to access income-tested supports such as the GST credit, the B.C. Low Income Climate Action Tax Credit, the Child Tax Benefit, the Guaranteed Income Supplement for seniors and much more. Filing your taxes gives you a way to prove your income, which can help you access subsidizing housing, childcare subsidy, and other community programs such as the LIFE pass. Not to mention, you might be entitled to a tax refund!

2
Q: How can TAPS help me with my taxes?

A: TAPS is happy to offer free income tax preparation services for up to the last 4 years of taxes (2021, 2020, 2019, 2018) for anyone who has a simple tax return and a modest income!

3
Q: What is a simple tax return?

A: Your tax return is simple unless you are self-employed, have business or rental income and expenses, have business or rental income and expenses, have capital gains or losses, have filed for bankruptcy, or are completing a tax return for a deceased person.

4
Q: What is a modest income?

A: A modest income is one which is up to \$35,000 for a single person and \$45,000 for couples and single parents (add \$2,500 per dependent).

6
Q: Do I need an appointment?

A: Nope! our tax services are available by drop off only; swing by our office any time we are open to pick up a tax package.

5
Q: How long will it take to file my taxes?

A: During tax season (February through May) our goal is to have your taxes filed within 2-3 weeks of drop off.

7
Q: What if I need more than 4 years of taxes filed?

A: TAPS is happy to help you file up to ten years of taxes during off season – come back in May and ask how we can help you file taxes for 2011-2017.

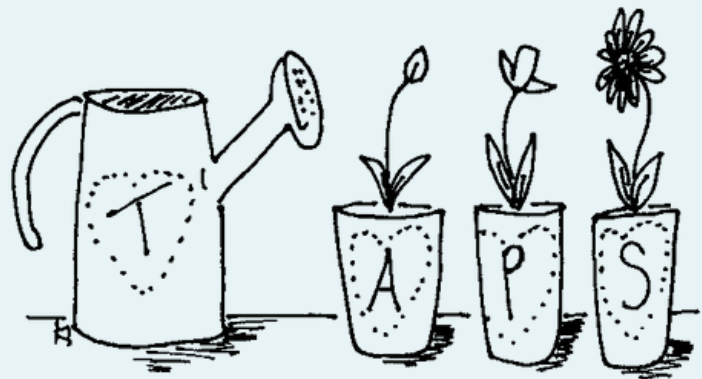
8
Q: I can't make it into the office, can you help me?

A: Thanks to our partnership with Disability Alliance BC's Tax AID program, TAPS is able to offer extra supports for individuals with disabilities who are receiving PWD or PPMB benefits. Give us a call or an email at tax@tapsbc.ca to learn more!

About TAPS

Together Against Poverty Society (TAPS) is the largest anti-poverty organization on Vancouver Island. Established in 1989, TAPS is a recognized leader and resource for citizens, community groups, and social agencies attempting to reduce poverty, serving over 7,000 residents of Greater Victoria, adjacent municipalities, and the Southern Gulf Islands each year... and we still cannot meet the needs of all who approach us.

At TAPS, we believe that the causes of poverty are in the social, economic and political institutions of our society – not the failings of the individual. Through legal advocacy and public education, we have a positive impact on people's lives in ways that honour and promote human rights, justice, and a healthy, sustainable community. TAPS is a non-profit society whose membership is open to individuals or groups concerned with the preservation of civil society, social justice, the eradication of poverty, as well as the continuing moral progress of those ideals.



become a DONOR

The simplest way to support TAPS with a financial donation is online at: www.tapsbc.ca/donate

Want your contribution to go farther? Consider becoming a **monthly donor!**

Physical donations can be mailed to or dropped off at:
828 View St.

Victoria BC, V8W 1K2

If you'd like a charitable tax receipt, be sure to include your name, contact information, and mailing address!

become a MEMBER

Please consider becoming a member of our organization to support the important work we do in the fight against poverty.

TAPS members can vote at our AGM and receive updates on our work throughout the year. There is no cost to membership.

To fill out a membership form, visit: www.tapsbc.ca/taps-memership or swing by our office!

OUR FUNDERS:



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