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BAILIFF AT THE DOOR

HOW A LANDLORD CAN LEGALLY KICK YOU OUT

By Hannah Mang-Wooley

Occasionally at TAPS we receive a phone call from a tenant in a highly stressful situation. Someone is at their door telling them they need to leave their house immediately and that the locks will be changed once they've gone. The tenant often wants to know if this is legal and, if so, what their options are. The truth is, if the person at the door is a certified bailiff, this is allowed. However, sometimes the person is a landlord, landlord's agent, or even somebody pretending to be a bailiff. The proper procedure for evicting someone is clear, but is not always understood or respected by landlords. This article will lay out the proper procedure for an eviction, and what your rights are once a bailiff arrives.



I've just received an eviction notice. What happens now?

If a landlord decides they want to evict you, they need to serve you with a proper notice to end residential tenancy (often called an eviction notice), telling you that you must leave on a particular date. There are a number of different responses that you might have to an eviction notice, but I will just focus on one scenario. Say that you disagree with the eviction and dispute it before the deadline stated on the eviction notice. You will then go through the dispute resolution process (also called arbitration) at the Residential Tenancy Branch (RTB). If the arbitrator decides in favour of the landlord, the landlord will be given what is called an "Order of Possession". This is a document that affirms who has legal possession of the rental unit, in this case, the landlord. The landlord needs to serve the Order of Possession on you, and you will need to move out within 48 hours of receiving it.

(See Bailiff, page 4)

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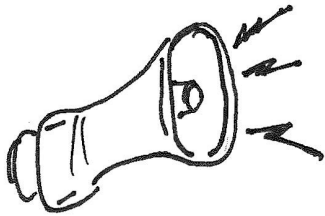
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Taproot Editorial

Pandemic Pay Must Stay

By Thea McDonagh



March 2020 marked the one-year anniversary of “TogetherBC”, BC’s first poverty reduction plan. The anniversary coincided with the escalation of the COVID-19 pandemic and the provision of income supports to help Canadians mitigate the financial impacts of the pandemic. This coincidence has underscored the stark difference between what has been deemed an essential income by the federal government and what is provided to people who rely on provincial income assistance.

In response to the pandemic, the federal government created the Canada Emergency Response Benefit (CERB). The benefit provides \$2000 per month to Canadians who lost income due to COVID-19 and is intended to cover the cost of basic necessities and sustain people until they are able to return to work. To date, the federal government has provided a total of 53 billion dollars in CERB benefits. In contrast to the CERB, the provincial government has provided recipients of income and disability assistance with a \$300 monthly crisis supplement to help with the additional costs related to COVID-19. Although this supplement is a necessary and welcome measure, when compared to the federal response, recipients of provincial assistance can’t help but feel left behind. In BC, a single person on basic income assistance is expected to survive on \$760 per month. For people who live with disabilities, the provincial assistance amount is \$1183 per month. Even with the additional \$300, which is only temporary, both benefits are still far below the \$2000 deemed by the federal government as necessary to make ends meet.

In addition to the low rates, recipients of provincial income assistance are ineligible for many of the other provincial supports that have been created to alleviate the impact of the pandemic. For example, they cannot collect the BC Emergency Benefit for Workers, a one-time \$1000 benefit provided to people who lost work due to COVID-19. Even if they lost work and meet all the other eligibility criteria, they are ineligible solely due to being on provincial assistance. They are also ineligible for the \$500 provincial rent supplement despite the fact they are only allotted \$375 per month to pay for rent. In our experience at TAPS, it is precisely these people who need these supplements the most. To prevent them from accessing them because they are already receiving income support is both short-sighted and punitive.

The government responses to the pandemic highlights the lack of consideration afforded to the most marginalized members of our community. Could it be any clearer now to those on provincial assistance that we expect them to do more with less? To somehow survive with almost half of what the federal government has deemed essential? The first report on the Poverty Reduction Strategy is expected to be released this fall, and we at TAPS are calling on the government to re-evaluate income assistance rates and make the \$300 increase to provincial benefits permanent. Provincial income assistance recipients have been living in a state of crisis that predates COVID-19 due to the woefully low rates of assistance. The \$300 increase has given those living in the deepest poverty a brief reprieve, and it would be cruel to take that away and force them to return to previous levels. The pandemic has presented us with a chance to re-evaluate our social and economic structures; let’s use this opportunity to ensure that all members of our community are provided for. ■



Dear TAPS Supporter,

In any other year this would be the time when we would be gathering at the Heron Rock Bistro to celebrate the work of TAPS. *Tapas for TAPS* has become a fixture in our calendars, but like so much else, it has been upended by COVID-19.

We miss the company of friends and supporters, and we look forward to the day when we will once again be able to get together over drinks and good food to recognize the vital work done by TAPS' staff in the fight against poverty. They are working harder than ever to assist clients who are facing the unprecedented job losses and housing insecurity that have been caused by the pandemic. They are doing all this while observing the orders of the Provincial Health Officer and WorkSafeBC guidelines, which inevitably complicate each client interaction.

We are mindful that everyone has been impacted by the pandemic and we appreciate your support for TAPS. Based on previous years, we would typically raise around \$22,000 in revenue from the generous contributions, ticket sales, and purchases made at *Tapas for TAPS*.

This year we ask that you think about what you might have spent at *Tapas for TAPS*, and consider making a donation of an equivalent amount in either a single or monthly donation. With help from you, TAPS can continue to offer essential services to some of Victoria's most vulnerable citizens.

If you think you can help us out during these difficult times please visit our website at www.tapsbc.ca for a link to contribute online, or send a cheque to our office: Together Against Poverty Society, 828 View Street, Victoria BC V8W 1K2.

It's also important to note that *Tapas for TAPS* has always been made possible through the support of local businesses and restaurants, some of which have been hit hard by the pandemic. While they won't be hosting *Tapas for TAPS* this year, Andrew Moffatt and the staff at Heron Rock Bistro have recently reopened for business, and we also ask that you consider the ways you may be able to support our local friends through your patronage.

Thank you for helping TAPS build a more just future for our communities.

Sincerely,
Patricia Cochran, Board President, TAPS

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(Cont'd from Bailiff, page 1)

The landlord has just given me an Order of Possession which says I need to be out of my suite within 48 hours. What happens if I don't leave? Will my landlord kick me out and change the locks?

It is true that you are supposed to move out 48 hours after receiving the Order, but if you fail to do so, your landlord can't legally force you out. You will be considered an "overholding tenant" and there are specific rules that your landlord has to follow in order to make you leave. At this point, it is illegal for the landlord to force you out, remove your belongings, or change the locks. This is covered by Section 57(2) of the *Residential Tenancy Act (RTA)*, which states, "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".

What is a "Writ of Possession"?

This is where things get a bit complicated, but bear with me! If you refuse to leave the rental unit after you are served an Order of Possession, the landlord must still follow a number of steps to make you leave. First of all, they need to check with the RTB to see if you have filed for Review Consideration. This is when the tenant believes the arbitrator has made a serious miscalculation by siding with the landlord and requests that the case be looked at again (the standard for a Review Consideration is very high and is not the same as disagreeing with the arbitrator's decision and wanting another arbitrator to hear the case). If you have not applied for Review Consideration, the landlord can take the Order of Possession to the Supreme Court of BC to request a Writ of Possession. While this sounds like a really big deal, the process of obtaining a Writ of Possession is mainly administrative and can happen quite quickly. The landlord just has to provide a sworn written statement (an affidavit) to the court to say that they followed the proper process outlined above. Once a landlord has a Writ of Possession, they can hire a bailiff to enforce the eviction.

What is a bailiff and what do they do?

Bailiffs are the only people who are allowed to enforce an eviction by removing you and your belongings from a rental unit and changing the locks. Bailiff companies have to be contracted under the Ministry of the Attorney General, and there are only two of these companies that operate on Vancouver Island: Consolidated Civil Enforcement BC Ltd., and Canadian Western Civil Enforcement.

Be aware that sometimes people are hired by landlords to try and pressure tenants to leave, and some of these people may even impersonate bailiffs. If someone is at your door claiming to be a bailiff, ask to see their identification. If they aren't from one of these two companies, then they are not a bailiff and they have no power to make you leave.

ANTONIA

We are sad to say good-bye to Antonia Mah, who has been at TAPS for the past several months doing her Social Work practicum. Thanks, Antonia, for all your work for TAPS' clients. It has been a great pleasure having you as part of our team. And congratulations on completing your Bachelor of Social Work!

All of us at TAPS

WRITE FOR TAPROOT

Taproot welcomes articles, stories and poetry from readers. Share your opinions, experiences, outrage, ideas and creativity. You can submit your writing by e-mail to volunteers@tapsbc.ca, or by mail to 828 View Street, Victoria, V8W 1K2. Or drop your submission off in person at our office. If possible, include a phone number, e-mail address, or street address where we can reach you.

(See Bailiff, page 5)

(Cont'd from Bailiff, Page 4)

Does the bailiff let me know beforehand that they are coming to my house?

No, they do not have to provide you with notice that they are coming. If you have received an Order of Possession and a Writ of Possession, you can expect that a bailiff may arrive at your house at any time. If you are in this situation, it can be a good idea to be at your house as much as possible and have your important items and documents gathered together to make the process less stressful when the bailiff arrives. Bailiffs can remove your belongings and change the locks regardless of whether you are present. If you think a bailiff may be coming, and you have to be away from your home, try to have someone there while you're out.

I've heard that bailiffs sometimes sell people's belongings. Is that correct?

Yes. The landlord has to pay the cost of hiring a bailiff, and their services are expensive, usually between \$1200 and \$1500. Bailiffs have the ability to remove and sell your possessions in order to recover these costs. From a legal perspective, you need to be aware that if a landlord has to use a bailiff to make you leave and your belongings won't cover the costs, they may file a monetary claim with the RTB and you could be held responsible for paying the remainder of the bailiff fee.

Will the bailiff remove and sell *all* my belongings?

No. Some of your belongings are what is called "exempt", which means that the bailiff can't sell them even if they are valuable. These exemptions are: necessary clothing, medical and dental aids, \$4000 worth of household furnishings and appliances, a vehicle worth up to \$5000, and tools or other items that you require for your work, worth up to \$10,000.

(See Bailiff, page 6)

BECOME A TAPS MEMBER!

Want to support TAPS? Why not become a member! We are happy to waive the fee, so it doesn't have to cost you anything. You will get the Taproot mailed or e-mailed to you.

Together Against Poverty Society Membership Registration 2020

Together Against Poverty Society, 828 View Street, Victoria, BC, V8W 1K2

Annual Membership Fees: Unwaged \$5 (we are happy to waive this fee)

Waged \$20 Organization \$80

Method of payment: Cash Check N/A

Date: _____

Name: _____

Address: _____ Postal Code: _____

Phone: _____ e-mail: _____

I would like to join TAPS' mailing list to receive:

E-mails from TAPS about its work

Taproot—TAPS' newsletter

>>> by e-mail

by postal mail

(Cont'd from Bailiff, page 5)

What happens to my exempt belongings?

If you are there when the bailiff first shows up, they are supposed to give you the chance to claim your exempt items. If you are not at home when the bailiff comes, then all of your valuable items will be taken to storage and the rest of your possessions will be left on the curb. This is where it is a good idea to have someone at your house who knows the situation, even if you have to go out. While that person cannot stop the bailiff from removing your things, they can at least look after anything that might end up on the curb.

What sort of items does the bailiff leave on the curb?

Any belongings the bailiff deems to be of low resale value are often left on the curb or lawn. Most clothing, kitchen items, and furniture that can't be resold, like beds or couches, would end up on the curb, whereas things like expensive electronics, motor vehicles, valuable jewellery and high-end furniture would be taken by the bailiff and put into storage.

How do I get my exempt belongings out of storage?

The bailiff will leave a notice informing you that your items have been seized. If this happens, it is important that you contact the listed bailiff company right away, because you only have two days to claim any exemptions. If you miss the two-day deadline, you lose the ability to claim anything as exempt.

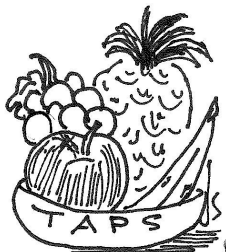
Will I have to pay storage fees to get my belongings back?

Yes. If you have valuable items that were taken to storage and you claim them as exempt, you will likely have to pay the storage fees in order to access them.

As you can see, the process of a legal eviction is a long one with many steps. Additionally, bailiffs have substantial powers and any situation involving a bailiff is sure to be extremely stressful and potentially expensive. If your landlord is following proper procedure, there are a number of steps before the bailiff comes. It really is best to move out before a bailiff gets involved, if at all possible.

Any eviction that doesn't follow the steps laid out in this article is illegal. We will go over some improper eviction scenarios and what you can do if you are evicted illegally in an upcoming issue of Taproot.

If you are at any point in an eviction process and you need help, please contact a tenant advocate at TAPS at 250-361-3521. ■



BECOME A MONTHLY TAPS DONOR!

With your support, individuals and families living in poverty in our region will have access to critical legal advocacy and educational services. TAPS' services are unique in their design and delivery, and offer knowledge, empowerment and, in many cases, a new sense of hope.

Select a monthly amount that's affordable to you, and TAPS will automatically deduct it from your checking account each month. You'll never have to write a check, buy a stamp or find an envelope again.

Monthly donors receive the following benefits:

- Updates on TAPS programs
- Annual tax receipt for all your donations during the year
- Taproot delivered to your e-mail.

See the monthly donor form on page 8 of this newsletter.

SAYING FAREWELL TO STEPHEN PORTMAN

With a heavy heart and a lot of gratitude we say goodbye to Stephen Portman as a member of TAPS' team. Stephen's new job at the United Food and Commercial Workers Local 1518 doesn't take him too far from the work he was doing here, though, and will provide him with lots of opportunity to continue his fight for workers' rights.

Stephen has been a key figure in our organization for more than ten years. This small space certainly can't do justice to the many ways he has helped TAPS grow, from his work developing TAPS' Employment Standards Legal Advocate position to his tireless efforts to push government to rethink its response to homelessness in our city, and beyond. At so many important junctures in the history of TAPS, Stephen has been there fighting for the rights of the precariously employed and those on income and disability assistance.

I don't think there is a single job in our organization that Stephen hasn't performed, including stepping in as Executive Director for a period of time when Kelly Newhook was on leave. I anticipate that for years to come we will continue to have people walking into our office asking for Stephen, because of how passionately he stuck up for them in the past.

We will all miss his sayings—"the tallest poppies get cut!"—and his intense and somewhat puzzling devotion to the song *Edelweiss*. In the words of Kelly, who spent many, many years in the fight alongside Stephen: "There is no one quite like the Portman! I have always admired his ability to take a complex and often heartbreaking problem, one that would seem truly impossible, and go above and beyond all expectations and solve it. He is never afraid to push the envelope, and TAPS is the better for it. His contributions to TAPS live on and his dedication to social justice and deep compassion for the people he serves continue to inspire!"

*From all of us at TAPS,
Thank you for your time with us, and...Sol*



Stephen Portman walking with homeless campers who had just been evicted from the Namegans tent city in 2018.

FEDERAL DISABILITY

TAPS can help you with your reconsideration request and appeal if you have applied for CPP-Disability and been denied. We are not, at present, able to help with the CPP-Disability application itself.

If you would like to speak with an advocate, call 250-361-3521.

TAXES

While TAPS' tax clinic is not running during the COVID-19 crisis, we are still able to complete your tax return for you, either by phone, e-mail or drop-off. If you need to get your taxes done, contact us at 250-361-3521 or tax@tapsbc.ca, or drop by our office at 828 View Street.

ABOUT TAPS

TAPS was established and registered as a society in 1989. We provide legal information and representation on issues relating to income assistance, provincial and federal disability benefits, residential tenancy, and employment standards to people in the Greater Victoria area. We also provide public legal education in these areas and on broader poverty issues.

You can reach us between 9:30 a.m. and 4:30 p.m., Monday to Friday, by phone at 250-361-3521 or in person at 828 View Street. The office is closed daily for lunch between noon and 1:00 pm and is closed to walk-in clients on Monday and Friday mornings.

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Thank You for Supporting TAPS' Legal Advocacy!

The best way to support TAPS is by becoming a monthly donor! Please submit this form and your voided check to: Together Against Poverty Society, 828 View Street, Victoria, BC, V8W 1K2

Date: _____

Please debit my bank account (attach VOID cheque):

\$10 \$25 \$35 \$50 \$100 Other amount \$_____ (please specify)

I would like this donation debit to be processed through my account on the 25th of each month.

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