

Guide 6: The Role and Responsibilities of Tenants and Landlords in Stratas

1. TENANTS LIVING IN STRATA PROPERTIES

Under the *Strata Property Act* (the Act) a tenant:

- is a person who rents all or part of a strata lot; and
- includes a sub-tenant.

In addition to the *Strata Property Act* and strata corporation rules and bylaws, residential strata tenancies in British Columbia are governed by the *Residential Tenancy Act* (RTA). More information on the RTA and the rights and responsibilities of tenants and landlords can be found at the Residential Tenancy Branch website here: <http://www.rto.gov.bc.ca/default.aspx>

Under the *Strata Property Act*, some tenants will have more rights and obligations than other tenants (see parts 4, 5 and 6 of this guide) if they:

- rent a commercial or residential strata lot and their landlord has assigned to them extra rights and obligations;
- lease a residential strata lot for a term of three years or greater; or
- are a family member, as defined in the Regulations.

2. THE RIGHTS OF TENANTS

All tenants have the following rights under the Act:

- to obtain a copy of the current bylaws and rules and a “Notice of Tenant’s Responsibilities” (Form K) from the landlord;
- to inspect at no charge and obtain copies of the bylaws and rules from the strata corporation;
- to request that the strata council grant them short term exclusive use of common property;
- to the same access to any dispute resolution methods as an owner;

[For more information on resolving disputes please refer to “*Guide 25: What to Know about Resolving Complaints*”.]

Right to End Tenancy

If the rental agreement contravenes a strata corporation rental restriction bylaw, then tenants have the right to end their tenancy agreement under the Act, without penalty, within ninety days of learning of the contravention and to receive reasonable moving expenses of up to one month’s rent from the landlord, by giving notice to the landlord.

Disclaimer: the guides are periodically reviewed and updated by the Office of Housing and Construction Standards as per the date in the footer below.

The guides are provided for the reader’s convenience; they are not a substitute for professional advice including legal advice. Please note: the Standard Bylaws can be amended.

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[Note: if the tenancy agreement is in contravention of a rental restriction bylaw, the tenant cannot be found in contravention of the rental restriction bylaw.]

Tenants have the right to end their tenancy agreement, without penalty, within ninety days of learning of the contravention and to receive reasonable moving expenses of up to one month's rent from the landlord, by giving notice to the landlord, if the landlord:

- does not give the tenant a copy of the bylaws and rules and a "Notice of Tenant's Responsibilities" (Form K); and
- fails to provide the strata corporation with a copy of a Form K signed by the tenant.

[Note: a tenant is still bound to comply with the strata corporation's bylaws and rules, even if the landlord has failed to comply with the above.]

Under the Standard Bylaws, all tenants have the following rights:

- to attend annual and special general meetings, unless a majority vote is passed to exclude them from the meeting; and
- to participate in discussions at annual and special general meetings if permitted by the chair.

3. **THE OBLIGATIONS OF TENANTS**

All tenants have obligations under the Act to:

- follow the bylaws and rules of the strata corporation;
- comply with the Act and Regulations;
- sign a "Notice of Tenant's Responsibilities" (Form K) when asked to do so by the landlord; and
- pay a user fee for the use of common property pursuant to a bylaw, if the user fee would also apply to the owner.

Under the Standard Bylaws, all tenants have obligations to:

- advise the strata corporation of their name, if it is requested;
- permit entry to their strata lot by any authorized person;
 - in an emergency, even though no notice has been given;
 - to inspect and repair parts of common property or the strata lot that the strata corporation is responsible to maintain or insure, if 48 hours written notice has been given.
- not cause a nuisance to others;
- not make unreasonable noise;
- not use their strata lot for an illegal purpose; and
- leash and secure pets in common areas.

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[Note: Under the Act, if a tenant is responsible to pay the cost of remedying a bylaw or rule contravention or a fine for a bylaw or rule breach, the strata corporation can collect this sum from the landlord and owner. The tenant will then owe this sum to the owner (landlord). However, the owner's responsibility to pay the cost of remedying contraventions or fines on behalf of the tenant cannot be assigned to the tenant.]

4. **THE RIGHTS AND OBLIGATIONS OF RESIDENTIAL TENANTS WITH LEASES OF THREE YEARS OR GREATER ("LONG TERM TENANTS")**

Residential long term tenants have the same rights and obligations as owners (the landlord) under the Act, Regulations, bylaws and rules (with the exceptions noted below) for the duration of the lease.

However, before exercising any rights of the owner (landlord), long term tenants must provide the strata corporation with written notice of:

- the time period of the lease; and
- their name.

Furthermore, long term tenants may never, without the consent of the owner, exercise any right of an owner to:

- acquire or dispose of land;
- cancel or amend the strata plan; or
- do anything which would affect the owner's interest in the strata lot, common property or land that is a common asset.

Some of the specific obligations of long term tenants are:

- to pay strata fees;
- to pay special levies that are due within the term of the lease; and
- to maintain and repair parts of the strata lot and limited common property that the bylaws make the owner responsible to maintain and repair.

Some of the specific rights of long term tenants are:

- to access and obtain strata corporation records;
- to attend and vote at special or annual general meetings;
- to receive strata corporation notices; and
- to be eligible for election to the strata council.

5. THE RIGHTS AND OBLIGATIONS OF TENANTS WHO HAVE BEEN ASSIGNED RIGHTS BY THE LANDLORD

Landlords may assign any of their rights and obligations (with the exception noted below) to tenants provided that they give written notice of the assignment to the strata corporation stating:

- what rights and obligations are assigned to the tenant;
- the name of the tenant; and
- the time period that the assignment is effective.

[Exception: The owner's responsibility to pay the cost of remedying contraventions or fines on behalf of the tenant cannot be assigned to the tenant.]

6. TENANTS WHO ARE FAMILY MEMBERS

A family member is defined in the Regulations as:

- a spouse of the owner;
- a parent or child of the owner;
- a parent or child of the spouse of the owner.

Spouse of the owner includes an individual who has lived and cohabited with the owner, for a period of at least two years at the relevant time, in a marriage like relationship, including persons of the same gender.

A family member who rents a strata lot will have all of the rights and obligations of long term tenants (set out in part 4 of this guide). Any rental restriction bylaw will not apply to a family member who is a tenant.

7. WHO IS A LANDLORD?

A landlord is:

- an owner who rents a strata lot to a tenant; or
- a tenant who rents a strata lot to a subtenant.

In addition to the *Strata Property Act* and strata corporation bylaws and rules, residential strata tenancies in British Columbia are governed by the *Residential Tenancy Act (RTA)*. More information on the *RTA* and the rights and responsibilities of tenants and landlords can be found at the Residential Tenancy Branch website here:

<http://www.rto.gov.bc.ca/default.aspx>

8. THE RIGHTS OF LANDLORDS

A landlord has a right under the *Strata Property Act* (the Act) to:

- assign all or some of his or her powers and duties to a tenant, except his or her responsibilities in relation to fines or other costs for the breach of bylaws or rules by a tenant; and
- collect any sums from the tenant paid to the strata corporation for:
 - fines the tenant owes to the strata corporation for bylaw or rule breaches; and
 - remedying a tenant's contravention of the bylaws and rules.

9. THE OBLIGATIONS OF LANDLORDS

A landlord has the following obligations under the Act:

- to give tenants a copy of the current bylaws and rules and a "Notice of Tenant's Responsibilities" (Form K);
- to give the strata corporation a copy of the Form K signed by the tenant within two weeks of the renting to the tenant;
- to pay to the strata corporation his or her tenant's fines and any costs incurred for remedying a contravention of the bylaws or rules, if required by the strata corporation;
- to pay his or her tenant's reasonable moving costs up to a maximum of one month's rent if the tenant ends a tenancy within ninety days of learning of the contravention due to the landlord failing:
 - to provide the tenant with a copy of the bylaws and rules; or
 - to provide a copy of the signed Form K to the strata corporation.
- to pay his or her tenant's reasonable moving costs up to a maximum of one month's rent if the tenant ends a tenancy within ninety days of learning of the contravention due to the rental agreement contravening a rental restriction bylaw; and
- to not interfere with the strata lot, common property, or land that is a common asset in a way that would be unreasonable if a three year lease or longer has been entered into with a tenant.

10. THE RIGHTS OF STRATA CORPORATIONS

A strata corporation has the following rights under the Act in relation to tenants:

- it may fine a tenant or assess against a tenant the cost of remedying a contravention of a bylaw or rule;
- it may collect any sums owing to it by a tenant for a bylaw or rule breach; and

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- it may grant or remove a grant of short term exclusive use of common property to a tenant.

A strata corporation has the following right under the Standard Bylaws in relation to tenants:

- it can by majority vote, ask a tenant to leave a general meeting if the tenant does not have the right to vote.

11. The Obligations of Strata Corporations

A strata corporation has the following obligations under the Act:

- it must give the landlord a copy of any written notice provided by a tenant which gives notice of the assignment of powers and duties under a lease of three years or more;
- it must provide for inspection or provide copies of all records, bylaws and rules to a tenant who has been assigned these rights by the landlord;
- it must provide former tenants, who were assigned the landlord's right to inspect records and documents as referred to in Section 35 of the Act, access to the records that relate to the time of their tenancy;
- it must provide access to the bylaws and rules to the tenant even when the landlord has not assigned the tenant the right to inspect or obtain records or documents of the strata corporation; and
- it must give notice to tenants of all meetings when the tenant has been assigned the owner's right to vote and the strata corporation has received notice of the assignment.

A strata corporation has the following obligation **under the Standard Bylaws**:

- it must allow, if permitted by the chair, a tenant to participate in discussion at an annual or special general meeting even if the tenant does not have the right to vote.

12. Eviction of a Tenant

A landlord can evict a residential tenant if the tenant repeatedly or continually contravenes a reasonable and significant bylaw or rule.

The strata corporation may be able to evict a residential tenant who repeatedly breaches reasonable and significant bylaw or rules, if there is serious interference with the rights of other persons in the strata development. Readers should seek professional advice if they need to determine specific legal rights and duties which may apply in their particular situations.

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References:

Sections of the Act: 1, 28, 35, 36, 45, 54, 76, 110, 124, 125, 129-135, 137, 138, 142, 145-148, 164, 165, 173, 174, 173, 175, 177, 178

Standard Bylaws: 3, 4, 7, 26

Please also see

- *Residential Tenancy Act* information which is available at the Residential Tenancy Branch website: <http://www.rto.gov.bc.ca/default.aspx>
- *Strata Property Guide 14: How to Enforce Bylaws and Rules*
- *“Strata Property Guide 15: Rental Permitted within a Strata Corporation”*