

## ***RESIDENTIAL TENANCY ACT***

### **WRIT OF POSSESSION PACKAGE**

If you have received an Order of Possession from the Residential Tenancy Branch and wish to have the order enforced by the Supreme Court, section 84 of the *Residential Tenancy Act* permits the order to be filed in the Supreme Court and enforced as a judgment or an order of that court.

#### **Director's orders may be filed in Supreme Court**

**84** (1) A decision or an order of the director may be filed in the Supreme Court and enforced as a judgment or an order of that court after

(a) a review of the director's decision or order has been

(i) refused or dismissed, or

(ii) concluded, or

(b) the time period to apply for a review has expired.

(2) Subsection (1) applies whether the decision or order is interim, temporary or final.

Supreme Court Civil Rule 2-2 - Tribunal Awards, sets out the procedures for this process.

### **RULE 2-2 - TRIBUNAL AWARDS**

#### **Definition**

- 1) In this rule, “**tribunal award**” means any order, decision, judgment or other determination that, under an enactment, may be filed or registered in the court for enforcement purposes.

#### **Tribunal awards may be filed**

- 2) A tribunal award may be filed in a registry.

#### **Filing tribunal awards**

- 3) To file a tribunal award under subrule (2), a certified copy of the tribunal award must be attached to a requisition in Form 17.2 and the requisition must be filed.

The Residential Tenancy Branch website provides information about enforcing an order of possession. (<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/solving-problems/tenancy-dispute-resolution/serving-and-enforcing-orders/order-of-possession>)

Supreme Court Civil Rule 13-2 – Enforcement of Orders includes a provision for issuance of a writ of possession. (Rule 13-2(3)). Pursuant to Supreme Court Civil Rule 13-2(13)(b) a writ of possession must not be issued unless there has been filed proof satisfactory to a registrar that;

- (b) in the case of a document, issued under an enactment, that on being filed in the court may be enforced as if it were an order of the court, the document
  - (i) has been filed in the court,
  - (ii) has, before or after being filed in the court, been served in accordance with the enactment or these Supreme Court Civil Rules on the person against whom the order is sought to be enforced, and
  - (iii) has not been complied with.

The *Residential Tenancy Act*, Part 6 – General Matters, Division 1 – How to Give or Serve Documents as well as Part 8 – Giving and Serving Documents in the Regulations set out the requirements for service and when documents are considered to have been received. A link to all of BC Statutes and Regulations may be found on the Court's website at <https://www.bccourts.ca/> or by accessing the following link; <http://www.bclaws.ca/>. An affidavit of service must be sworn by the person that served the documents. The sample affidavit of service included in this package has been drafted for circumstances when the party to the proceeding will be swearing the affidavit. When a process server or another person serves the documents, they will need to provide the affidavit of service and the party to the proceeding or a person that is aware of the facts will need to provide an affidavit including the evidence shown in paragraphs 2 to 5 of the affidavit included in this package.

The filing fee in Supreme Court for a writ of possession is \$80.00. If you require any affidavits sworn at the court registry, the fee for swearing an affidavit at the court registry is \$40.00.

A writ of possession issued by the Supreme Court must be enforced by a Court Bailiff. The claimant (landlord) will need to make arrangements with one of the Court Bailiffs and advise the Court Registry which bailiff they have chosen to enforce the writ of possession. The claimant should inquire directly with the various Court Bailiffs as to their fees.

The documents included in this package are:

- 1) Requisition – Form 17.2
- 2) Writ of Possession – Form 52
- 3) Affidavit of Service (RTA)

Court File No.: .....

Court Registry: .....

*In the Supreme Court of British Columbia*

Claimant:

Respondent:

[or]

In the Matter of

**REQUISITION – TRIBUNAL AWARD**

**Filed by:** .....

*[party(ies)]*

Required: the filing of the attached tribunal award made under the .....

And issue Writ of Possession.

*[name of Act]*

**My address for service is** *[set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Address for service: .....

.....

.....

Fax number address for service (if any):

E-mail address for service (if any):

Dated: .....

.....  
Signature of

☐ filing party ☐ lawyer for filing party(ies)

.....

*[type or print name]*

Form 52

Court File No.: .....  
Court Registry: .....

*In the Supreme Court of British Columbia*

Claimant:

Respondent:

### **WRIT OF POSSESSION**

Name and address of lawyer or person causing this writ to be issued:

.....  
.....

*To the Sheriff:*

WHEREAS it was ordered, on ....., that

☐ the respondent ....., deliver to the claimant  
....., possession of  
.....  
(the "land");

YOU ARE COMMANDED promptly to enter the land and cause .....  
to have possession of it;

YOU ARE COMMANDED promptly to seize and sell at public auction or tender for the best price  
available sufficient of the goods and chattels of .....  
to realize the claimant's costs, fees and expenses of execution and the costs, fees and expenses for  
executing this writ.

Dated: .....

.....  
Registrar

Court File No.: .....  
Court Registry: .....

*In the Supreme Court of British Columbia*

Claimant:

Respondent:

## AFFIDAVIT

I, ..... of .....  
..... [occupation], make oath/affirmation as follows:

1. That, on the ..... day of ..... in the year ..... at  
..... o'clock ☐ AM ☐ PM, I did serve the Respondent,  
..... with a copy of the attached order for possession of  
residential property/manufactured home site here unto marked Exhibit A to this  
my affidavit by:
  - ☐ leaving it with the respondent at .....
  - ☐ sending it registered mail to the respondent's residence at .....  
.....
  - ☐ leaving a copy at the respondent's residence, .....  
..... with an adult who apparently resides with the respondent
  - ☐ by attaching a copy to a door or other conspicuous place at, .....  
....., the address at which the respondent  
resides at
  - ☐ as ordered by the director under section 71(1), a copy of the order is  
attached as Exhibit "A" to this affidavit.
  - ☐ by emailing a copy to an email address provided as an address for  
service by the respondent in accordance with the Residential Tenancy  
Act Regulations. E-mail address:  
.....

2. That the time for filing for review under section 80 of the *Residential Tenancy Act* or section 73 of the *Manufactured Home Park Tenancy Act* has passed.
3. That I contacted the Residential Tenancy Branch after the time for filing for review had passed and confirmed that no application for review of the director's decision or order was filed.  
or

That I have received a written decision stating that the application for review of the director's decision or order has been refused, dismissed, or concluded with the original decision and order being confirmed.

4. That the order for possession was not suspended under section 81(3) of the *Residential Tenancy Act* or section 74(3) of the *Manufactured Home Park Tenancy Act*.
5. The respondent has not obeyed the order and has not delivered vacant possession of the residential property/manufactured home site.

SWORN (AFFIRMED) BEFORE	)	
ME at .....	)	
in the Province of British Columbia, this .....	)	
day of ....., 20.....	)	.....
	)	signature of deponent
	)	
.....	)	
A Commissioner for taking Affidavits	)	
in the Province of British Columbia	)	