

Condo Smarts

Headline: Form K & Rental Bylaws

Topic: Rentals and Rental Bylaws; Forms, Form K Notice of Tenant's Responsibilities

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Dear Condo Smarts: I purchased a unit for investment purposes in 2007 with the intent that someday my wife and I would retire to Victoria. Since our purchase, our daughter has resided in the unit as a family member with no incident. She has also served on council for one term, with the thanks of the owners in the building. The newly elected strata council sent us a notice that we have to provide a Form K under the rental bylaw, and if we fail to provide the Form K, we are subject to the \$500 fine of the rental bylaw. We responded to the council that she has been a resident for over 4 years, we are not in violation of the rental bylaw and have no intention of completing a form. The council have now imposed a \$500 fine on us for failing to provide the form. How can a strata council impose a fine for a bylaw that we are exempt from? Evan Dyer

Dear Evan: The Form K (notice of tenant's responsibilities) is a requirement under the Act for any landlord tenant relationship in a strata. There is no exemption from a form K requirement; however, the real impact and risks of not providing the Form K rest with the landlord, not the strata corporation or the tenant. The landlord must give the prospective tenant the current bylaws and rules, and a copy of the Form K. Within 2 weeks of renting the landlord then has to provide a copy of the signed notice to the strata corporation. If the landlord fails to comply, the tenant is still bound by the bylaws and rules, and may within 90 days of learning of the landlord's failure to comply, end the tenancy without penalty by giving notice to the landlord. Under these terms the landlord must also pay the tenant's reasonable moving expenses to a max of one month's rent. Here's where a bylaw for a Form K is a bit tricky. If the rules and bylaws still apply, and the landlord is subject to incurred

penalties by the tenant, why would the strata care about the tenant? Under Section 35 of the Act, the strata must maintain a list of names of owners and tenants. The record keeping is also essential for emergency and safety purposes. As a result, many strata corporations include the providing of a Form K as part of the bylaws, but what is the strata permitted to fine and at what frequency? The strata corporation may only restrict the rental of a strata lot by a bylaw that limits the number or percentage of lots that may be rented, or the period of time lots may be rented. The limitation in the Act does not include a Form K as part of a rental bylaw. The only provision for a \$500 fine is if the landlord is renting in contravention of a bylaw that limits or prohibits rentals. As a family member rental, your daughter is exempt from the rental restriction bylaw, but you must still provide a form K. The maximum amount permitted by the regulations is arguable as to whether it is permitted and the limit to a fine of \$200. We know one reoccurring problem about bylaws in strata corporations that many strata councils and owners forget. You can adopt almost any type of bylaw, but is it enforceable, and if not, what will be the cost to the strata corporation? Disputing the enforceability of bylaws after the fact is a costly venture for strata corporations and owners. Before you adopt a new bylaw, legal advice is necessary to ensure your new bylaws comply with the Strata Property Act, the Regulations, the BC Human Rights Code and any other enactment of law.

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