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COMMERCIAL "EVICTIONS" ARE NOT SUSPENDED

Commercial tenancies in Alberta are governed by the lease contract, the common law applicable to the terms of the contract, the law of equity applicable to the relationship, and real estate law. Alberta does not have legislation that governs commercial tenancies.

If the contract gives the landlord a right to terminate and re-enter the premises for breach (eg. non-payment of rent), the landlord can typically exercise those rights and does not need Court approval to do so. The landlord will, of course, want to be sure that it is correct in so acting, and entitled to so act, failing which the landlord may find that it has breached the lease or lost some important remedies. If access to the Court is to be sought, normally it would be at the instance of the commercial tenant seeking to reverse the landlord's acts under the contract. For example, a tenant could seek an injunction to enjoin the landlord from re-taking the premises and other relief. Current circumstances may lend themselves to such relief.

The Courts in Alberta are largely closed at this time. Obviously, that is not a permanent status. For now, the Court of Queen's Bench is only hearing "emergency" and "urgent" matters. Those appear to be narrowly defined. An "urgent" matter includes injunctions, but only where there is "*prima facie* urgency".

It is hard to keep up with all of the changes in our society during the COVID-19 pandemic. We get a lot of our information in the fluid and ever-changing environment from the media (traditional and non-traditional). Some media stories cause confusion.

It was widely reported that certain landlords' rights were banned or prohibited. The Edmonton Journal, for example, wrote:

Alberta is banning evictions for renters until at least May 1 and freezing rent increases to help counter some of the worst social and economic impacts of COVID-19.

While announcing the new measures Friday afternoon, Premier Jason Kenney said landlords cannot charge late fees for three months and are "obliged" to work with tenants to develop payment plans for the duration of the public health emergency,

No one will be evicted April 1 for non-payment of rent. I repeat: no one will be evicted at the beginning of the next month for non-payment of rent,” said Kenney at the province’s daily COVID-19 update.

...

Civil enforcement of evictions now underway for non-payment of rent will be suspended until April 30, including for renters who have been behind on rent for months. Rent will also be frozen, even if increases were planned or announced already.¹

Several media outlets ran similar stories. The Government of Alberta, to its credit, published a detailed and accurate [description of its measures](#).

The measures introduced by the Government of Alberta have nothing to do with commercial tenancies. All rights and obligations under commercial lease agreements are unchanged. Notwithstanding what was reported in the media, commercial landlord and tenant relationships were not affected.

What actually happened is that the Minister of Service Alberta issued a ministerial order on March 27, 2020. It was made under the *Public Health Act*, which authorizes the minister to “suspend or modify the application or operation of all or part of an enactment”. The [ministerial order](#) suspended or modified the *Mobile Home Sites Tenancies Act*. The Minister of Service Alberta also made a ministerial order passing a [regulation](#) under the *Residential Tenancies Act* on March 27, 2020.

As noted, there is no statute governing commercial tenancies in Alberta. As such, the *Public Health Act* can not look to any “enactment” to “suspend or modify”, and there is no act that can readily give rise to a regulation. Nor did anyone actually purport to suspend, modify or regulate commercial landlord and tenant contracts in Alberta. The rights and obligations of commercial landlords and tenants are not suspended.

The disruption brought on by the COVID-19 pandemic has changed the ever-evolving legal landscape governing commercial leasing relationships. The lawyers at JSS Barristers have decades of experience in navigating these complex legal issues, and we would be glad to provide you with assistance.

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¹ Johnson, L. (2020, March 29). COVID-19: Alberta Bans Evictions Until At Least May 1, Closes Non-Essential Businesses. Edmonton Journal. <https://edmontonjournal.com/news/local-news/covid-19-alberta-bans-evictions-closes-non-essential-business-and-limits-public-gatherings-to-15/>