

Publisher's Note

2019 — Release 1

Previous release was 2018-9

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Williams & Rhodes

Canadian Law of Landlord and Tenant

Williams and Rhodes' *Canadian Law of Landlord and Tenant*, 6th Edition, is an in-depth examination of both commercial and residential tenancies law in every jurisdiction in Canada. It provides a consolidation of all statutory and regulatory developments, including rent control. Topics discussed in the publication include the creation of the landlord and tenant relationship, requisites of leases and agreements, various tenancies and leases, rent and recovery of rent, and termination of tenancies. The text also includes landlord and tenant legislation from all Canadian jurisdictions set out full together with concordance between provinces.

What's New in this Release

This release features updates to the case law and commentary in chapters: 13 (Delivery up of Premises and Recovery of Possession), 14 (Renewals — Valuation of Buildings — Options to Purchase), 17 (Over View of the Legislation), 19 (Rent), 22 (Termination for cause), and 28 (Liability in Tort). Words and Phrases section has also been updated in this release.

Highlights

New and significant case law discussed in this release includes the following:

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DELIVERY UP OF PREMISES AND RECOVERY OF POSSESSION — DOUBLE VALUE — APPLICATION OF STATUTE — The lease in question was for a one-year term and never continued as month to month tenant. The tenant negotiated and signed a settlement agreement which contained an express acknowledgement that she would vacate the premises on a specified date and she gave no reasonable explanation for her failure to leave on the agreed date. She was not mistaken, careless, negligent or under the impression that she did not have to leave, and her conduct was accordingly characterized as willful: *Meadowridge School Society v. Allen*, 2018 BCSC 1707, 2018 CarswellBC 2619 (B.C. S.C.).

LIABILITY IN TORT — STANDARD OF CARE — The landlord of a rural residential property was liable in negligence when donkeys wandered from the property onto the road and caused a motorcycle accident, injuring the driver. It was not disputed that the tenancy was subject to the Residential Tenancies Act of Ontario and, therefore, subject to the maintenance and repair obligations prescribed therein. The tenant was negligent in allowing the donkeys to wander from the property and the landlord was negligent in the absence of a policy or procedure for inspection of the fences. The landlord had purchased the property with the fences in place and had knowingly leased the property to a tenant with domestic animals: *Youssef v. Redi-Mix Limited*, 2018 ONSC 6409, 2018 CarswellOnt 18147 (Ont. S.C.J.).

BETTERMENT — BRITISH COLUMBIA — . . . whether aspects of [proposed remedial] work would give rise to a betterment of the Residence. By “betterment”, I mean that the Residence would be put in a better condition than it would have been if the Contract had been performed: *Hu v. Kerchum*, 2018 BCSC 1508, 2018 CarswellBC 2364 (B.C. S.C.) at para.52 Voith J.).

COMMON PROPERTY — BRITISH COLUMBIA — The pipes . . . clearly became common property under subsection (b)(i)(B) of the definition of “common property” in the *Strata Property Act* [S.B.C. 1998, c. 43] as soon as they were installed in the exterior wall. The installation of the pipes was the “making [of] an alteration to a strata lot that involve[d] common property within the boundaries of a strata lot”: *Allwest International Equipment Sales Co. Ltd. v. The Owners, Strata Plan LMS4591*, 2018 BCCA 187, 2018 CarswellBC 1184, 13 B.C.L.R. (6th) 168 (B.C.C.A.) at para. 19 Groberman J.A. (Hunter and Fitch JJ.A. concurring).

COVENANT — NEWFOUNDLAND & LABRADOR — I agree that, despite the fact that the word ‘covenant’ is not used [in mortgage], an agreement by a mortgagor to pay interest and/or principal is clearly a personal covenant of the mortgagors: *11346 (Nfld) Limited v. Hynes Construction*, 2018 NLSC 255, 2018 CarswellNfld 483 (N.L. S.C.) at para. 49 McGrath J.)