



Residential Tenancy Branch

Compliance and Enforcement Unit

CEU File [REDACTED]
October 29, 2020

Notice of Administrative Penalty and Reasons for Decision

Pierre Ka-Ling WONG
Hue Phan WONG

[REDACTED]

To: Pierre Ka-Ling WONG and Hue Phan WONG

Full Summary of Administrative Penalty

Name of Respondent: Pierre Ka-Ling WONG and Hue Phan WONG

Dispute Address: [REDACTED]

Date of Penalty Issued: October 29, 2020

Contraventions under the Residential Tenancy Act (the Act): Section 33 Emergency Repairs **Outcome of the Investigation:** An administrative penalty in the amount of \$1,000.00 for each day the contravention continued.

The Compliance and Enforcement Unit (the CEU) received a complaint on August 19, 2020 alleging the respondent was contravening the Act by failing to make emergency repairs. Pursuant to section 87.1 of the Act, an investigation commenced on August 28, 2020.

Between August 29, 2020 and September 3, 2020, the respondent made minimal efforts to ensure the fire alarm system was fully functioning. The respondent was informed by the Provincial Fire Commissioner (PFC) that the deficiencies created an imminent risk to the life of the occupants residing in the 14-unit building in the event of a fire and was Ordered by the PFC to make repairs. The CEU advised the respondent of their obligation to comply with the Act and the potential consequences for not doing so, the respondent did not take the immediate action required to make the urgent and necessary repairs.

Administrative Penalties are issued to promote compliance only after all other attempts to gain compliance have failed. The respondent's compliance history and the seriousness of the contravention were considered when determining a one-time or continuing penalty.

Under the authority provided by Part 5.1 of the Act, the Director of Compliance and Enforcement ordered a \$1,000.00 administrative penalty for each day the contravention continued for a total of \$6,000.00.

The administrative penalty is due on January 4, 2021.

Ministry of Municipal Affairs
and Housing

Residential Tenancy Branch
Compliance and Enforcement Unit
Office of Housing and Construction
Standards

Mailing Address:
PO Box 9298 Stn Prov Govt
Victoria BC V8W 9J8
www.gov.bc.ca/landlordtenant

Public Information Lines:
604-660-1020
250-387-1602
1-800-665-8779

I write further to my letter dated September 4, 2020. In that letter, I outlined relevant details relating to your repeated contravention of section 33 (Emergency Repairs) of the Act.

You were provided with an opportunity to be heard as required by section 87.3 of the Act and your written submission in response was due by September 30, 2020. On October 1, 2020 you were advised that the due date was extended to October 8, 2020. You failed to respond on or before October 8, 2020 and as of the date of this letter, I have received no submissions or any other correspondence from you. As set out in my September 4, 2020 letter, on this basis, I have assumed that you have waived your right to be heard. As permitted by section 34 of the Residential Tenancy Regulation (the Regulation), I have completed my assessment of whether to levy an administrative penalty against you.

Notice of Administrative Penalty

This letter is notice to you, Pierre Ka-Ling WONG and Hue Phan WONG, that based on my consideration of the evidence, I hereby order that you are subject to a \$1,000.00 administrative penalty for each day the contravention continued between August 29, 2020 and September 3, 2020 for a total of \$6,000.00. I make this order pursuant to section 87.3 of the Residential Tenancy Act, due to your repeated and deliberate failure to comply with section 33 of the Act.

Contravention or failure to which the penalty relates

I am satisfied on the balance of probabilities that you continued to contravene section 33 of the Act between August 29, 2020 and September 3, 2020. Evidence establishes that on August 20, 2020 the Provincial Fire Commissioner issued you an order requiring you to provide documents including but not limited to, those pertaining to the inspection, testing and maintenance of the fire alarm system. You were advised that the life safety system located at [REDACTED] B.C. was in a state of disrepair and deteriorating, endangering life and property in the event of a fire.

Under section 33 of the Act, emergency repairs are defined as “urgent” and “necessary for the health or safety of anyone or for the preservation or use of residential property” and it includes the electrical systems. Evidence indicates that the immediate and urgent concern was the fire alarm system. Even though you were ordered on August 20, 2020 by the Provincial Fire Commissioner to address this concern and notified by the CEU on August 28, 2020 of the contravention of section 33 of the Act, the contravention continued until September 3, 2020.

After being informed of the potential for an administrative penalty for each day you contravened section 33 of the Act, you failed to immediately seek out the services of a qualified professional in good standing in the community to inspect, test and provide maintenance, if required, to the fire alarm system. After the fire alarm system was inspected you failed to immediately pursue the recommended action to replace the fire alarm panel knowing that it was not functioning. Significant risk to life and property persisted for each day the fire alarm panel was not fully functioning.

Despite being informed by the [REDACTED] Fire Department dating back to June 18, 2018 as to what the deficiencies were to the life safety systems, including the fire alarm system, you allowed the deficiencies to further deteriorate resulting in an Order by the Provincial Fire Commissioner on August 20, 2020. Evidence indicates you failed to action any of the requirements set out in the Order from the Provincial Fire Commissioner until September 3, 2020.

Should a penalty be imposed?

I have considered all of the factors set out in section 87.3(2)(b) of the Act in deciding to impose an administrative penalty against you.

Since August 29, 2020 you made minimal efforts to ensure the fire alarm system was fully functioning and although you expedited an appointment with a qualified professional to inspect the life safety systems, this only happened after the investigator advised you again of the potential for an administrative penalty of \$1,000.00 for each day the contravention of section 33 continued. You failed to immediately pursue the recommended action from the qualified professional to replace the fire alarm panel despite being informed that it was not functioning.

You were informed that these deficiencies created an imminent risk to the life of the occupants of your building. You were provided with information and opportunity to take the necessary steps and your actions caused delays thereby increasing the risk to the renters in the 14-unit building and first responders in the event of a fire between August 29, 2020 and September 3, 2020.

The contravention of section 33 of the Act was deliberate and continuous over the course of six days causing unreasonable and significant risk. Therefore, I find it is necessary to take the step of imposing an administrative penalty against you.

Amount of penalty

For the reasons set out in the Administrative Penalty Assessment document attached to this decision, I have set the amount of the administrative penalty at \$1,000.00 for each day the contravention continued between August 29, 2020 and September 3, 2020. At this time, I am setting the penalty at \$6,000.00 with the expectation that this will ensure your compliance with the Act.

Please be advised that should you continue to contravene the Act or the Regulation and/or refuse to comply with the decision or orders of the Director, you may be subject to additional penalties of up to \$5,000.00 for each day the contravention continues.

Pursuant to section 9(5)(d) of the Act, the RTB will be publishing the decision and summary thereof with respect to the administrative penalty proceedings against you, including your penalty payment status and your name.

This \$6,000.00 administrative penalty is to be made payable to the Minister of Finance by cheque, money order or bank draft. Please submit the payment to:

Scott McGregor
Director, Compliance and Enforcement Residential Tenancy Branch
PO Box 9298 Stn Prov Govt
Victoria, BC V8W 9J8

Date by which penalty must be paid

Section 35 of the Regulation states that an administrative penalty must be paid within 60 days after the date of the order. **Please send your payment to my attention at the address noted above by January 4, 2021.**

Sections 87.3 (4) through 87.3 (7) of the Act provide opportunities for the Director to consider alternatives to enforcing all or part of an Administrative Penalty. Any request to consider an alternative can be sent to my attention at the address provided above before the payment due date. The request should include your proposal for an agreement including:

- the actions you propose to take,
- the date by when you propose to have completed those actions, and
- the amount by which you propose the administrative penalty be reduced or whether you propose the administrative penalty be cancelled if those actions are completed by that date.

If an agreement is entered into and you fail to complete the required actions by the specified date, the administrative penalty will once again be due and payable.

Right to have Director reconsider the decision imposing the penalty

Under section 87.8 of the Act, you have the right to apply to the Director for a review of the matters set out in this notice. Division 2 of Part 5 of the Act applies to any such review. Please note that, as outlined in section 79 of the Act, a decision or an order of the Director may be reviewed only on one or more of the following grounds:

- a) a party was unable to attend the original hearing (or respond to the opportunity be heard) because of circumstances that could not be anticipated and were beyond the party's control;
- b) a party has new and relevant evidence that was not available at the time of the original hearing (or in consideration of an Administrative Penalty, at the time the original opportunity to be heard was provided to you);
- c) a party has evidence that the Director's decision or order was obtained by fraud.

An application for review of a decision or order of the Director:

- a) must be made in the approved form and in the manner approved by the Director,
- b) must be accompanied by the fee prescribed in the regulation,
- c) must be accompanied by full particulars of the grounds for review and the evidence on which the applicant intends to rely, and
- d) may be made without notice to any other party.

The time limit for filing an application for review is within 15 days after you have received a copy of this decision. In accordance with section 90 of the Act, you will be deemed to have received this decision on November 3, 2020 therefore you will have until November 18, 2020 to apply for review. Should you wish to exercise this right, complete an Application for Review Consideration (form #RTB-2). Be sure to clearly indicate the grounds for the review and include all evidence that supports your claim. Submit your application along with the \$50.00 filing fee in person at a Residential Tenancy Branch office or Service B.C. location.

You can find additional information including the Application for Review Consideration on this webpage:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/solving-problems/dispute-resolution/after-the-hearing/review-clarify-or-correct-a-decision>

Recovery of Administrative Penalty


As set out in section 87.9(1) of the Act, an administrative penalty is a debt due to the government. Failure to pay the penalty as ordered will result in collection action being taken.

In addition, section 59(5)(b) of the Act gives the RTB the authority to refuse applications for dispute resolution, with respect to any matter, if the applicant owes outstanding fees under this Act to the government.

Sincerely,



*Signature on original

Scott McGregor
Director, Compliance and Enforcement Residential Tenancy Branch
PO Box 9298 Stn Prov Govt
Victoria, BC V8W 9J8
Email: 

Enclosed:

Administrative Penalty Assessment
Administrative Penalty Order
Residential Tenancy Branch Administrative Penalty Policy Guideline 41