

## 1 Landlord's Right to Seize

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- Common law allows a landlord to seize the personal property of a tenant for rent arrears. The Civil Enforcement Act states the seizure must be carried out by a licensed bailiff working for a Civil Enforcement Agency.
- You must have a valid lease. The lease should be in writing, but can be established where a tenant is paying rent on a "month-to-month" basis.
- You CANNOT seize for rent after the lease has been terminated. There are some commercial leases that allow the landlord to take back the premises without terminating the lease. Please seek legal counsel with regard to your specific lease and the rights and remedies afforded by it.
- The tenant must be "in arrears" before you can seize.
- If your lease identifies additional items such as utilities, common area costs or other charges to be "deemed as rent," you can include those amounts in the total arrears. You may also be able to seize for accelerated rent if specifically allowable in your lease.
- Seizing a tenant's property to recover rent arrears can be both risky and complicated. You must comply with the terms of your lease, and also with "common law."
- Do your homework regarding your tenant's property and assets. Is it worth seizing? There should be sufficient value in the property at forced sale prices to at least cover seizure costs. If not, the seizure process will cost you money and you will not recover any rental arrears.
- The tenant's property must be on the rental property for the bailiff to seize it.

## 2 Instructing Us For Seizure

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You will need to provide the following documentation:

- Completed Warrant
- Letter of Instructions - The more information we have from you, the better.
- Copy of Rental Agreement or documentation showing the existence of a landlord/tenant relationship.
- Statement of Arrears
- Seizure Retainer Required

Our office will prepare all other documents required by the Civil Enforcement Act for issuance to the Bailiff.

## 3 Seizure Decisions

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When providing our office with instructions you must also provide instructions about what should happen to the goods after they have been seized. Serious consideration should be given to the question of removal.

- Should the seized property be removed at the time of seizure or left in the possession of the tenant? Removal costs can be substantial.
- If there is a reasonable chance the tenant will remedy the default, the seized goods should be left on a Bailee's Undertaking.
- If there is little hope the tenant will remedy the default, consideration must be given to where the seized goods should be removed.
- What are the storage options in the area? Is on-site storage available?
- Initial seizure costs vary but generally run between \$1,010 to \$1,540 plus GST, depending on location and complexity. Additional bailiff time, mileage, removal costs, locksmith, etc. will impact overall costs.
- The tenant has 15 days to object to the seizure once the seizure has been conducted. If the tenant objects, your lawyer must make a court application before Consolidated Civil Enforcement is able to sell the seized property. During this time, storage costs will continue to accumulate and remain your responsibility, potentially reducing the amount of recovery at sale.

#### 4 Priorities and Other Issues That May Affect the Seizure Outcome

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We are required to conduct a Distribution Seizure Search at Personal Property Registry prior to seizure. This search will help to identify priority issues that may affect your decision to seize and/or remove. The search may also make you aware of any court ordered stays or bankruptcy for example. Some common priorities are:

- Prior seizure in place against your tenant
- Canada Revenue Agency – deemed trust debt
- Workers' Compensation Board
- Garage Keeper's Lien
- Purchase Money Security Interest (PMSI) - landlord cannot seize if secured by a PMSI
- Priority between a Security Agreement that is not a PMSI and a landlord is determined by whoever seizes first
- Bankruptcy

#### 5 Post Seizure Process

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- Seized property must be sold by the Civil Enforcement Agency and can be sold in any commercially reasonable method available (auction, private sale, tender, etc.).
- Is on-site sale an option (may result in substantial cost savings)?
- The tenant (debtor) has the right to object to the seizure and to a private sale to the landlord (creditor). NOTE: the debtor has no right to object to a sale by any other method or to any other party.
- Debtor objections must be addressed by court application brought by a law firm (if not withdrawn by the debtor voluntarily). Storage costs incurred during this time remain the responsibility of the landlord.
- Process from seizure to sale and distribution of proceeds will vary depending on each file's circumstances (objection filed or not, timing of sale, distribution priorities, etc).
- Negotiated settlement is available to the creditor and debtor at any time during the seizure process.
- Can you terminate the lease immediately after the seizure is made or while goods are still under seizure? The law regarding termination after seizure is made or while goods are still under seizure is complex. Obtain legal advice prior to taking any action.

#### 6 Indemnity

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We will require an indemnity before proceeding with any seizure. If you are using your own letter of instructions, the form of indemnification contained in our letter of instructions must be contained in your letter.

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**Send by email to:** CEA@ccebailiff.ca

Head Office – 300 801 Manning Road NE, Calgary, AB T2E 7M8

Website: www.ccebailiff.ca

Calgary Ph: 403-262-8800

Fx: 403-262-8801

Edmonton Ph: 780 448-5833

Fx: 780 448-0698

<p><b>Date:</b> _____</p> <p><b>Tenant Information</b></p> <p>Tenant Name(s): _____</p> <p>_____</p> <p>Tenant Address: _____</p> <p>_____</p> <p>Phone: _____ Gender: _____</p> <p>Is the Business Still Operating? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Hours of Operation (commercial): _____</p> <p># of months in Arrears: _____</p> <p>Total Rental Arrears: \$ _____</p>	<p><b>Client Information</b></p> <p>Name: _____</p> <p>Contact: _____</p> <p>Phone: _____</p> <p>Reference: _____</p> <p><b>Attachments</b></p> <p><input type="checkbox"/> Warrant</p> <p><input type="checkbox"/> Statement of Rental Arrears</p> <p><input type="checkbox"/> Copy of Rental / Lease Agreement</p> <p><input type="checkbox"/> Seizure Deposit Required – \$1,250</p> <p><input type="checkbox"/> <b>RUSH</b> (Additional fees apply)</p>
<p><b>Seizure Instructions</b></p> <p>We hereby confirm we have the right to seize the property of the tenant as identified above, pursuant to outstanding rental arrears owed to us and acknowledge we have not terminated the lease and will not terminate the lease before seizure is complete. We also acknowledge the agency must conduct the sale of the seized goods. We hereby instruct Consolidated Civil Enforcement Inc. to:</p> <p><input type="checkbox"/> Seize sufficient non-exempt assets of the Debtor to satisfy the total amount owing to the landlord</p> <p><b>OR</b></p> <p><input type="checkbox"/> Seize the property listed below (all assets for seizure must be available on the leased premises):</p> <p>_____</p> <p><input type="checkbox"/> Leave goods in the possession of the tenant on a Bailee's Undertaking</p> <p><b>OR</b></p> <p><input type="checkbox"/> Remove goods to auction or to a commercial storage facility as listed below (Consolidated does not recommend removal of seized goods until after the debtor objection period has expired): _____</p> <p>_____</p> <p>Best time to seize: _____</p> <p>Any known dangers, threats, or concerns for the bailiff? <input type="checkbox"/> Yes <input type="checkbox"/> No. If yes, please elaborate below:</p> <p>_____</p> <p>Additional Instructions:</p> <p>_____</p> <p><input type="checkbox"/> If Business is no longer operating, we authorize Consolidated Civil Enforcement Inc. to use a locksmith to gain access to complete the seizure. (NOTE: If locks have to be rekeyed, provide a notice for posting on the doors, clarifying no termination is taking place and how to obtain access. We recommend consulting with your legal counsel).</p>	

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## ***Contract and Indemnity***

### ***Contract for Services***

The undersigned Instructing Party hereby warrants to Consolidated Civil Enforcement Inc. (Consolidated) that it is the enforcing party, or that it is the lawful agent of the enforcing party or is otherwise legally authorized to give instructions on behalf of the enforcing party to Consolidated and that it has determined that the enforcement activities instructed herein are lawful. Upon instructing Consolidated, the Instructing Party shall be responsible for the costs of such services, including all costs required to lawfully complete, suspend or withdraw civil enforcement activities. The Instructing Party agrees to pay for all services performed and invoiced by Consolidated within 30 days of the invoice date. Such services will be charged at the rate published by Consolidated with the Sheriff for the Province of Alberta. The Instructing Party shall pay interest on overdue amounts at a rate of 18% per annum, calculated annually, not in advance. The Instructing Party further agrees to provide deposits or other advances for civil enforcement services to be performed upon the request of Consolidated.

***Instructing Party (Individual or Legal Name of Company):*** \_\_\_\_\_

***Address:*** \_\_\_\_\_

***Phone:*** \_\_\_\_\_ ***Fax:*** \_\_\_\_\_ ***Email:*** \_\_\_\_\_

\_\_\_\_\_  
***Signature (Required)*** ***Name (please print)***

### ***Indemnity***

The undersigned confirms that enforcement instructions given to Consolidated are lawful and factually accurate and hereby indemnifies on a solicitor and his own client basis Consolidated, and its directors, shareholders, employees, and agents in respect of its fees, charges and disbursements and in respect of any suit, liability, or claim for damages that might be incurred by it in respect of any function carried out on the enforcement instructions. However, this indemnity shall not extend to any liability arising from the negligence or willful misconduct of Consolidated. This indemnity shall remain in force with respect to all services requested from time to time. In the event of litigation to which this indemnity applies, the undersigned agrees to fund, during the course of such litigation, the legal defense costs of Consolidated and its directors, shareholders, employees, and agents. The undersigned further agrees to provide additional indemnities, bonds or assurances as required by Consolidated from time to time.

***Individual or Legal Name of Company:*** \_\_\_\_\_

***Address, Phone and Fax (if different from above):*** \_\_\_\_\_

\_\_\_\_\_  
***Signature (Required)*** ***Name (please print)***

Previous P.P.R. Registration Number (W.C.B. only)

Civil Enforcement Agency File Number

# Warrant

(DISTRESS)

Landlord's Distress

Type

LRO

Code

TO:



Head Office: 300, 801 Manning Road NE, Calgary AB T2E 7M8  
Phone: 403 262-8800 or TF 1 800 313-4270 (press 3) | Fax: 403 262-8801  
Email: CEA@ccebailiff.ca

You are hereby instructed to seize the personal property of

Name and Address of Debtor

in order to satisfy an outstanding debt in the amount of

owing to \_\_\_\_\_ plus costs.

Name of Creditor

Location of personal property if different from the debtor's address

Dated at \_\_\_\_\_, \_\_\_\_\_, on \_\_\_\_\_.

Signature of Instructing Creditor or Authorized Agent

Print Name of Instructing Creditor or Authorized Agent

Address of Instructing Creditor or Authorized Agent

City

Province

Postal Code

Telephone Number

Fax Number

# Information for Debtor

## READ THIS DOCUMENT IMMEDIATELY

Your property has been seized under the Civil Enforcement Act either to satisfy a judgment against you or to satisfy a landlord's claim for unpaid rent ("landlord's distress"). This document sets out the exemptions to seizure to which you are entitled. Please note that, if the seizure is to satisfy another kind of claim, you may not be entitled to exemptions.

**Caution:** This document is not intended to provide legal advice. You should seek legal advice if you have any questions regarding your rights and obligations.

### CIRCUMSTANCES WHERE EXEMPTIONS DO NOT APPLY

The exemptions listed below do not apply in the following circumstances:

1. If you are not an individual (e.g. you are a corporation).
2. If the judgment against you is for the payment of maintenance or alimony.
3. If you have abandoned the seized property.
4. If the judgment arises out of an act for which you have been convicted of an offence under the Criminal Code.

**EXEMPTIONS** – Except where any of the above circumstances apply, the following property is exempt from seizure:

	<b>WRITS</b>	<b>LANDLORD DISTRESS</b>
1. Food required by you and your dependants during the next 12 months.		
2. Clothing which is necessary for you and your dependants up to a value of.....	\$4,000	\$4,000
3. Household furnishings and appliances up to a value of.....	\$4,000	\$1,000*
4. One motor vehicle up to a value of .....	\$5,000	Not exempt
5. Medical and dental aids required by you or your dependants.		
6. If your principal source of income is from farming, personal property necessary for the proper and efficient running of your farm for the next 12 months.		
7. If item 6 does not apply to you, personal property required by you to earn income from your occupation up to a value of	\$10,000	\$10,000 – in the
case		of Residential Premises
8. Money payable by the Agriculture Financial Services Corporation in respect of a claim for loss or damage to crops.		

### \* FOR LANDLORD DISTRESS PURPOSES ONLY

Household Furnishings and appliances means one washing machine and dryer; one kitchen suite; bedroom suites and bedding; kitchen appliances including one each of a stove, a microwave, a refrigerator and a freezer; kitchen utensils; and, carriages, strollers, cradles and cribs necessary for the use of the debtor's children.

### NOTICE OF OBJECTION

- If you believe that there is a valid reason why the property that has been seized should not have been seized you must serve the Notice of Objection that has been provided to you on the Civil Enforcement Agency that made the seizure.
- The Civil Enforcement Agency must receive the Notice of Objection from you within 15 days of the day that the seizure documents were served on you or an adult member of your household. Your Notice of Objection will be void if the Civil Enforcement Agency receives it after the 15 day period has expired or if you do not give a reason for your objection.
- The address of the Civil Enforcement Agency to which you must deliver your Notice of Objection is indicated at the top of the Notice of Objection.

**Warning:** If your objection to seizure is not based on valid reasons you could be required to pay legal costs resulting from your objection.

**Notice:** If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency shown on the Notice of Seizure of Personal Property. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff – Civil Enforcement at (780) 422-2481.

## MasterCard/Visa Authorization Form

Today's Date	
Card Type:	<input type="checkbox"/> VISA <input type="checkbox"/> MasterCard
Retainer Amount:	
Cardholder Name:	
Card Number:	
Expiry Date:	
Additional charges incurred	By signing below I hereby authorize Consolidated Civil Enforcement Inc. to charge the above noted credit card for invoices incurred on this file. I agree to pay these charges and understand that Consolidated Civil Enforcement Inc. will forward me copies of the same marked as paid by credit card.
Card Holder Signature:	

**ATTACH PHOTOCOPY OF FRONT AND BACK OF CREDIT CARD**

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**For CCE Office Use Only**

CCE File Number: \_\_\_\_\_ Authorization Date: \_\_\_\_\_

Authorization Number: \_\_\_\_\_ Authorizing RM: \_\_\_\_\_

CCE Invoice Payment

Invoice #: \_\_\_\_\_ Invoice Amount: \_\_\_\_\_ Authorization Date: \_\_\_\_\_

Invoice #: \_\_\_\_\_ Invoice Amount: \_\_\_\_\_ Authorization Date: \_\_\_\_\_

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**Consolidated Civil Enforcement Inc.**

300 801 Manning Road N.E. Calgary, AB T2E 7M8 \* Phone: (403) 262-8800 \* Fax: (403) 262-8801  
 Toll Free Phone: (800) 313-4270 \* Toll Free Fax: (888) 262-8803