

DECISION

This was an application by the tenant for cancellation of a Two (2) Month Notice to End Tenancy for landlord's use of property, and a monetary order for recovery of the filing fee for the cost of this application. In the absence of a copy of the Notice, the hearing heard testimony by the tenant and landlord, and each agreed that such a Notice was issued on January 19, 2009, with an effective date of April 1, 2009, and that the only stipulated reason identified on Page 2 of the Notice was for the landlord to, "*. . . repair the rental unit in a manner that requires the rental unit to be vacant*".

The landlord personally served the tenant with a 2 month Notice to End Tenancy for the purpose of conducting renovations, with the tenancy to end April 1, 2009. The tenant and the landlord are both aware of the tenant's entitlement to one month's rent when such a Notice is enacted. The landlord has been in a slow process of completely renovating all of the rental units in the 40+ year old building over the past years, and the tenant's unit is now determined to be the next to be renovated. The intended renovations include the installation of new bathroom plumbing, new bathroom fixtures and floor, sanding all the hardwood flooring (all flooring except in bathroom and kitchen), and possible renovation of the kitchen area. The landlord has been advised the renovations will take at least a month, or longer, and the tenant has been advised it will not be possible for her to occupy the unit, or leave her belongings in the unit while renovations take place. The landlord confirmed the rental unit is required by the landlord to be vacant during the renovations. The landlord does not have any other empty rental units available for the tenant to occupy during the renovations.

During the hearing the landlord requested an order of possession. However, the tenant proposed a willingness to vacate the premises along with her belongings for the amount of time required performing the renovations and repairs, and thus the renovations could be performed without resorting to a termination of the tenancy. The landlord explained that this was not acceptable as the exact scope and length of time of the renovations is dependent on several factors, including tradesmen, beyond their control. The tenant could reapply for the suite after the renovations.

The tenant brought into question the landlord's motive for seeking to have her vacate the residential tenancy simply to raise the rent and, in her mind, another reason for

issuing the Notice to End is because the tenant is regarded to be an advocate for renters in her building. The landlord confirmed they will surely seek to raise the rent after the renovations in aid of recovering its costs. When the “good faith” intent of the landlord is brought into question the burden is on the landlord to establish that they truly intend to do what the landlord indicates on the Notice to End, and that the landlord is not acting dishonestly or with an ulterior motive for ending the tenancy, as the landlord’s *primary* motive. The landlord re-iterated that the tenant’s suite needs renovation, it is required to be vacant and that the landlord wishes to proceed on this process at this time. If an ulterior motive exists; I do not believe that an ulterior motive is the landlord’s *primary* motive for ending the tenancy. I believe the primary motive is the reasons stated in the Notice to End Tenancy, and therefore I find the landlord has met the requirements of having acted in “good faith” in issuing the notice, and that the landlord intends in good faith to renovate the rental unit in a manner that requires the rental unit to be vacant or empty.

I find that the landlord properly served the tenant with the Notice to End Tenancy, that she will provide the one month’s rent to which she is entitled, and that the landlord intends in good faith to renovate the rental unit in a manner that requires the rental unit to be vacant. Therefore, I find the landlord is entitled to an order of possession. I further find that due to the delay in this matter coming to a hearing and as the tenant has waited with uncertainty to have this Notice reviewed I am issuing the landlord an order of possession effective **April 30, 2009**. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I am dismissing the tenant’s application to cancel the Notice to End Tenancy. The tenant is not entitled to recover the \$50 filing fee for this application.

Dated March 06, 2009.