



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL CNC FF O

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, received by the Residential Tenancy Branch on May 4, 2016 (the "Application").

The Tenants seek the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order cancelling a 2 Month Notice to End Tenancy for Landlord's Use of Property, dated April 25, 2016 (the "2 Month Notice"); an order granting recovery of the filing fee paid; and other unspecified relief.

The Tenants have also indicated they wished to dispute a notice to end tenancy for cause. No such notice has been issued. As such, I amend the tenant's Application to exclude the issue of disputing the 1 Month Notice to End Tenancy for Cause.

The Tenants were represented at the hearing by R.E. J.M., a project manager, was called by the Tenants to give evidence on their behalf. The Landlords were represented by H.C. All parties giving oral testimony provided their solemn affirmations.

Although the Tenants submitted late evidence in the form of a letter from the City of Vancouver, dated May 31, 2016, it is not determinative of any issue in this hearing. Otherwise, both parties confirmed receipt of the others' evidence, and neither party raised any concerns.

The parties were provided the opportunity to present evidence orally and in written and documentary form, and make submissions.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Should the 2 Month Notice issued by the Landlords be cancelled?
2. Are the Landlords entitled to an order of possession?
3. Are the Tenants entitled to recover the filing fee paid?

### Background and Evidence

This hearing concerns a long-standing tenancy. The Tenants moved into the rental unit roughly 34 years ago. Although a copy of the tenancy agreement was not provided by either party, the parties confirmed that, at the time of the hearing, the Tenants paid rent to the Landlords in the amount of \$900.00 per month, payable on the first day of each month.

The Landlord has submitted into evidence a copy of the 2 Month Notice. H.C. and R.E. confirmed the 2 Month Notice was received by the Tenants on April 26, 2016.

H.C. provided oral testimony concerning the work to be completed at the rental property. Specifically, he advised that the Landlords' insurer requires them to upgrade the electrical system. The rental property is old and contains primarily knob-and-tube wiring that has been in place since the 1930s. It is estimated that all of the current electrical system will need to be replaced, including the electrical panel. If the Landlords do not do this work, he says, they will not be able to obtain insurance. This electrical work is scheduled to begin in July 2016.

H.C. also indicated that, due to the age of the home, and other issues in addition to the electrical work, the Landlords intend to do a more thorough renovation. The anticipated work includes:

- Removing and replacing kitchen countertops, sink, and plumbing;
- Replacing interior and exterior doors;
- Possibly replacing plaster and lath with drywall;
- Replacing laundry facilities;
- Addressing mold and other issues associated with basement flooding;
- Repairing a sewer line;
- Replacing water supply line; and
- Painting and finishing the interior and exterior.

Due to the age of the home, asbestos is also a concern. The Landlords have contacted a company to address this concern but have been advised an assessment cannot be performed until the rental property is vacant.

Further, H.C. confirmed a City of Vancouver inspector will be meeting at the rental property when it is vacant to review the proposed renovations, at which time further permits may be issued.

R.E. provided oral testimony in reply. He advised his main concern is B.J.'s health. She is due to have major surgery to address an esophageal tumor, although no date is set. B.J. is expecting to meet with the surgeon in the upcoming weeks to determine a plan. R.E. has sent the Landlords a letter suggesting an extension to the tenancy to December 31, 2016, to allow a sufficient recovery period.

J.M.'s evidence in support of the Tenants' submissions included reference to his review of the electrical permit submitted into evidence by the Landlords. He says he has also inspected the property. He does not believe the electrical work alone requires the rental property to be vacant.

J.M. also gave evidence of a letter he received from the City of Vancouver confirming the only permit issued as of May 31, 2016, was the electrical permit submitted as evidence by the Landlords.

### Analysis

In light of the oral and documentary evidence provided by the parties, and on a balance of probabilities, I find:

Section 49 of the Act permits a landlord to end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to renovate and repair the rental unit in a manner that requires the rental unit to be vacant.

Based on the evidence before me, I find the Landlord may not have all the necessary permits and approvals required by law. Although the Landlord provided documentary evidence that a permit had been obtained for the electrical work, it has not yet been determined if the remainder of the work will require permits. The Landlord's evidence was that further permits for the remainder of the proposed work may be obtained after a site meeting with City of Victoria inspectors.

In addition, I am not satisfied that the Landlords have provided sufficient evidence to establish that the electrical work proposed, alone, will require the unit to be vacant. However, based on the scope of work suggested by the Landlords for the remainder of the project I am satisfied that vacant possession may be required in the future.

As a result, until such time as the Landlords have all the necessary permits in place or obtain confirmation from local authorities that no further permits are required I find the 2 Month Notice is premature.

### Conclusion

In light of the above, I order the Tenants' Application for Dispute Resolution is successful and the 2 Month Notice is cancelled. The tenancy continues unless otherwise ended in accordance with the *Act*.

As the Tenants have been successful, I grant the Tenants recovery of the filing fee, in the amount of \$100.00, which may be deducted from a future rent payment.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 07, 2016

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Residential Tenancy Branch