



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FF OPL

### Introduction

This hearing dealt with the corporate landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession based on a landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate landlord was represented at the hearing by their agent, S.W. (the "landlord").

The tenant acknowledged receipt of the landlord's 2 Month Notice, along with the landlord's evidentiary package. I find that the tenant has been duly served in accordance with the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a return of the filing fee?

### Background and Evidence

Undisputed testimony was provided to the hearing by the landlord that this tenancy began in April 2016 when the corporate landlord purchased the property with the tenant in occupation of the rental unit. Rent is \$600.00 per month and a security deposit of \$250.00 collected by the previous landlord continues to be held by the current landlord.

The landlord has applied for an Order of Possession based on a 2 Month Notice to End Tenancy. The reason cited on this notice is as follows;

- The landlord has all necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

During the hearing, it was explained by the landlord that the property required asbestos remediation prior to demolition, which requires vacant possession of the property. The landlord said that no demolition permits will be issued until remediation work had been completed. The landlord explained that the corporate landlord owned another nearby property and it was their experience that this process had to be followed before any demolition permits were issued. The landlord described a three story building which was to be constructed in place of the rental unit and noted that signs for demolition and building approval were in place on the property. The landlord said that the property was specifically purchased for redevelopment and that they had been informed by their construction company that remediation was required prior to demolition.

The tenant disputed the landlord's notice. He argued that no steps had been taken by the landlord to fulfill the reasons given in the 2 Month Notice. Furthermore, he explained that he spoke to the development service technician at the city, R.A., and that she had informed him that no permits had been issued for the property in question. The landlord noted that a permit for remediation had been issued, while the tenant said that he had not been shown this permit.

### Analysis

In order to successfully apply for an Order of Possession against a tenant for landlord's use of the property under section 49 of the Act, the landlord has the burden of proving the reason for the issuance of the Notice, in this case that they have all the necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

The landlord provided testimony speaking to the nature of the work required on the premises and describing the future plans for the property. The landlord explained that it had been the experience of the corporate landlord that asbestos remediation was required on a property before any demolition permits could be issued. Furthermore, she explained that steps towards the sites redevelopment had been taken. These steps included signs for the future development being placed on the property, and remediation permits being issued. While I accept the landlord's testimony that plans for redevelopment of the property are underway, I find that the landlord has failed to adequately demonstrate that they have all the necessary permits and approvals required

by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

I find insufficient evidence was presented to the hearing showing that adequate steps had been taken to prepare the property for demolition. I accept the landlord's testimony that demolition permits would not be given until asbestos remediation had taken place; however, little evidence other than oral testimony was presented to the hearing that any concrete steps had been taken to advance the redevelopment of the site. The landlord failed to provide letters from contractors describing the nature of the project. No photos of the site or plans for its proposed redevelopment were submitted and little evidence that the site was being prepared by contractors for redevelopment was presented at the hearing. I find that the landlord has failed to show on a balance of probabilities, that is more likely than not, that she has all necessary permits and approvals required by law to demolish the rental unit. For these reasons the landlord's application is dismissed.

As the landlord was unsuccessful in her application, she must bear the cost of her own filing fee.

### Conclusion

The landlord's application for an Order of Possession is dismissed. This tenancy shall continue until it is ended in accordance with the *Act*.

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: February 15, 2018

---

Residential Tenancy Branch