



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **PFR**

Introduction

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an Order ending the tenancy and an Order of Possession of the rental unit for renovations pursuant to Section 49.2 of the Act.

The hearing was conducted via teleconference. The Landlord attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference. The Landlord was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord testified that he was not recording this dispute resolution hearing.

The Landlord testified that he served the Tenant with the Notice of Dispute Resolution Proceeding package and evidence on June 9, 2022 by Canada Post registered mail (the "NoDRP package"). The Landlord referred me to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that the Tenant was deemed served with the NoDRP package five days after mailing them on June 14, 2022 in accordance with Sections 89(1)(c) and 90(a) of the Act.

Issue to be Decided

Is the Landlord entitled to an Order ending the tenancy and an Order of Possession of the rental unit for renovations?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord testified that this periodic tenancy began on April 1, 2021. Monthly rent is \$812.00. A security deposit of \$400.00 was collected at the start of the tenancy and is still held by the Landlord.

The Landlord testified that he built the house 31 years ago, and at that time he used a grey poly pipe which was the standard at that time. Over the years, it has been determined that this standard of piping under extreme temperatures cracks. This is what has happened in this home, and it is affecting the rental unit because due to the cracks sand and debris have been allowed to enter and travel to the boiler. The Landlord had to replace the boiler last year which cost him \$6,000.00.

In April 2021, the Landlord was alerted to the problem when the Tenant complained about the heat not working in the rental unit. The Landlord testified that a plumber advised him that the water was flowing very slowly, and the pipes needed to be replaced.

The Landlord described the scope of the work as he had completed similar work in the adjoining basement suite. He needs to take the carpet out and cut the floor to find the pipes. Once he finds the pipes, then he will take out the grey piping, and replace it with upgraded red piping. The Landlord presented photographic evidence of the proposed work which he did in the neighbouring suite. The Landlord's contractors will have to cut the floor in several places. If the piping location is found under cabinets or the tub, these items will have to be removed.

A May 2022 quotation from the plumbing company states:

REMARKS: Need to Replace underground heating Pipes and water Pipes Poly Jo Rep
Replaced Baseboards too, Permit not Required for Replace Fixtures
and we need the suite complete empty for work Total \$12000
Total Price Plus Taxes

The Landlord testified that the repairs are necessary because he does not want more damage done to the new boiler that was installed last year. Once the pipes are replaced, this will ensure a prolonged life of the rental unit.

The repair costs for the neighbouring basement suite were \$35,000.00. The Landlord estimates the total expenses for this repair will range from \$20,000.00 to \$25,000.00, as after the piping is replaced, the Landlord will have to replace the flooring, then last remaining touch-ups. The Landlord argues that if the boiler's functionality goes because of sand build-up inside it, the boiler will have to be replaced again.

There is only one bathroom in this basement suite unit, and when the work commences, the mess will be considerable. There is no way someone can continue to live there while the repairs are being done. These are major repairs; it is not the simple change of a sink. The Landlord stated he offered the neighbouring two-bedroom unit to the Tenant, but the Tenant refused it. The rent amount offered was \$1,430.00.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

This hearing was conducted pursuant to RTB Rules of Procedure 7.3, in the Tenant's absence, therefore, all the Landlord's testimony is undisputed. Rules of Procedure 7.3 states:

Consequences of not attending the hearing: *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

Section 49.2 of the Act sets out the circumstances that apply for granting an end of tenancy and an Order of Possession for renovations. It states:

Director's orders: renovations or repairs

- 49.2 (1)** *Subject to section 51.4 [tenant's compensation: section 49.2 order], a landlord may make an application for dispute resolution requesting an order ending a tenancy, and an order granting the landlord possession of the rental unit, if all of the following apply:*
- (a) the landlord intends in good faith to renovate or repair the rental unit and has all the necessary permits and approvals required by law to carry out the renovations or repairs;*
 - (b) the renovations or repairs require the rental unit to be vacant;*
 - (c) the renovations or repairs are necessary to prolong or sustain the use of the rental unit or the building in which the rental unit is located;*
 - (d) the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement. (emphasis mine)*

The Landlord's undisputed testimony is that no permits are required to complete these repairs. The Landlord provided documentary evidence that his plumbing contractor needs the rental unit completely empty to do the repair job. The Landlord has been through a similar repair job and stated that there will be considerable mess in the rental unit when the job is underway. Once these repairs are completed the life of the rental unit will be prolonged. I find based on the undisputed testimony of the Landlord, that the only reasonable way for him to conduct these repairs is to have the rental unit vacant, and in accordance with this, the tenancy must end.

Based on the undisputed evidence from the Landlord, I find he has proven on a balance of probabilities that this tenancy must end for renovations or repairs. I grant an Order of Possession to the Landlord which will be effective on October 31, 2022 at 1 p.m.

Conclusion

The Landlord's application is granted.

I grant an Order of Possession to the Landlord effective on October 31, 2022 at 1:00 p.m. The Landlord must serve this Order on the Tenant as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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

Dated: October 19, 2022

Residential Tenancy Branch