



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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A matter regarding JONBECCA HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Code: PFR

Introduction

The landlord seeks orders under section 49.2 of the *Residential Tenancy Act* (the “Act”).

Issue

Is the landlord entitled to orders under section 49.2?

Background and Evidence

In their application the landlord was asked to describe the renovations and why vacant possession is required. The landlord provided the following written submission:

It will be a major renovation and there will be no water, electricity, and sewer facility for some time. With the insulation and energy upgrades required by City, it may involve hazmat. Basement will be converted to 2 bedroom self contained suite with its own separate electric and gas meters. There will be a structural beam that will be replaced with a metal beam. Electrical wiring for whole house to be updated. Plumbing lines re piped. New sewer and water lines. New drain tiles. New windows.

One of the landlord’s agents (P.Y.) provided sworn testimony that essentially mirrored the information contained in the written submission. The agent testified that the tenants were made aware when they began renting (in July 2021) that the rental unit would eventually be renovated.

The agent testified that there will be no water, sewer, or electrical during renovations. Renovations are expected to last about six months. A factor that may affect the overall time is testing for asbestos and so forth; the rental unit is a heritage house built in 1929.

The tenants asked a few questions of me about the process. One tenant pointed out that, in his opinion, the house is still in perfectly liveable condition. And, that the decision by the landlord to renovate is more of a financial decision than anything else. Last, the tenants remarked that they are planning on leaving Vancouver in September 2023. (As noted during the hearing, the parties may engage in discussions regarding the tenants' vacating of the property outside of the dispute resolution process.)

Copies of the permits were in evidence, and which were served upon the tenants.

Analysis

Section 49.2(1) of the Act, under which the landlord makes this application, states:

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.

The landlord must provide evidence to prove each of the above-cited four elements. After reviewing the evidence, it is clear to me that the landlord has all the necessary permits and approvals to renovate. In the absence of evidence to the contrary, it is assumed that the landlord plans, in good faith, to renovate. Given the extensive nature of the renovations—which will involve shutting off utilities and checking for asbestos—it is reasonable to conclude that the rental unit will need to be vacant for six months.

The type of renovations being undertaken, namely, not only the conversion of the property into two self-contained rental units, but the important electrical, water, and sewer upgrades (which include electrical versus gas heating), are I find necessary to both prolong and sustain the use of the rental unit.

At this point, I would like to address the tenants' statement that the property is currently "perfectly liveable." Whether the rental unit is in a condition that is presently suitable for occupation is not, however, a factor that may be considered in this type of application.

Finally, it is my finding that the only reasonable way to achieve vacancy is to end the tenancy. Expecting tenants to continue to pay rent while the rental unit is uninhabitable for at least half a year would be absurd, as would expecting the landlord to "hold" the property during the renovations. Indeed, the rental unit itself that is currently being rented will cease to exist after renovations are done. To that end, ending the tenancy under this section of the Act is the only reasonable option, in my opinion.

Having determined that all of the requirements in subsection 49.2(1) of the Act are met, I must grant (1) an order ending a tenancy and (2) an order of possession. Therefore, it is ordered that the tenancy will end on April 30, 2023, unless the tenants choose to end it earlier under section 50 of the Act.

An order of possession with an effective date of April 30, 2023 is issued with this decision to the landlord. The landlord must serve a copy of the order of possession upon the tenants no later than December 23, 2022.

Conclusion

The application for orders under section 49.2 of the Act is granted.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: December 16, 2022

Residential Tenancy Branch