



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

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

- an order seeking vacant possession for renovation or repairs of the rental unit pursuant to section 49.2.

The hearing was conducted by conference call. All named parties attended the hearing. No issues were raised with respect to the service of the application and evidence submissions on file.

### **Issues**

Is the landlord entitled to an order providing vacant possession for renovation or repair of the rental unit?

### **Background and Evidence**

The tenancy began on June 20, 2020. The monthly rent is \$4100.00.

The landlord's application was filed on December 2, 2022.

The landlord testified that a permit was acquired in November 2022 to perform alterations to the house. The landlord states that after obtaining the permit she filed this application requesting an order to end the tenancy. The landlord did not lead any further evidence or submissions aside from the above statements.

On behalf of the tenants, their advocate submits that the landlord has failed to demonstrate all of the requirements of section 49.2 of the Act. The advocate submits the landlord has failed to provide any evidence or details to demonstrate why the renovations require the unit to be vacant or how they are necessary to prolong or

sustain the use of the rental unit. Rather, the advocate submits that as per the landlord's application and building permit, the landlord intends to completely amend the floorplan, adding a bathroom, a bedroom, and alterations to add or update a fitness room and theatre room.

### Analysis

Pursuant to section 49.2 of the Act, a landlord may make an application requesting 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 failed to present any evidence or submissions on why the planned renovations require the rental unit to be vacant and more importantly why the renovations are necessary to prolong or sustain the use of the rental unit.

I find the landlord has failed to demonstrate how all of the above requirements of section 49.2 of the Act apply.

The landlord's application is dismissed without leave to reapply.

### Conclusion

The landlord's application is dismissed without leave to reapply.

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: April 17, 2023