



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

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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 a dispute resolution proceeding, the applicant must prove their claim on a balance of probabilities (meaning “more likely than not”). I have considered the parties’ testimony, arguments, submissions, and documentary evidence, but will only refer to evidence that I find relevant and necessary to explain the decision.

As a preliminary matter, based on the documentary evidence submitted by the landlord before the hearing, it is my finding that all three tenant respondents have all been served or deemed to have been served pursuant to section 89(1)(c) of the Act. One of the tenants (D.H.) attended the hearing.

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

Complete replacement of bathroom and kitchen from original construction in 1982. Rewiring to facilitate new appliances and fixtures. Electrical, plumbing, framing and drywall to accommodate new plan with laundry appliances (no existing laundry appliances). Complete replacement of flooring with new over newly-installed heated substrate. Work requires simultaneous access to entire apartment and will involve interruption to services for extended periods of time.

The landlord (K.B.) gave affirmed testimony that essentially mirrored the information contained in the particulars, and reflected the information contained in the thirty-page package of documentary evidence. The documentary evidence contained the various referenced permits, which include permits for electrical work, windows and doors, plumbing, and general permits for each rental unit. The work is extensive and there is no realistic way for the rental units to be occupied or for the tenancies to continue.

The tenant did not have any questions. But he explained that he wanted to be sure of his legal rights under the Act pertaining to this type of application.

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, I am persuaded on a balance of probabilities that the landlord has all the necessary permits and approvals to repair and 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, it is reasonable to conclude that the three rental units will need to be vacant for a prolonged period.

The type of renovations being undertaken are, I find as a fact, necessary to prolong and sustain the use of the rental unit.

Having determined that all the requirements in subsection 49.2(1) of the Act are met, I must grant (1) an order ending the three tenancies, and (2) orders of possession for each of those rental units.

The tenancies are hereby ordered ended on November 30, 2023 (pursuant to section 49.2(4) of the Act, which requires a minimum period of 4 months). The tenants are, however, at liberty to end their tenancy earlier under section 50 of the Act.

The tenants are entitled to compensation under section 51.4 of the Act.

Copies of the orders of possession are issued with this decision to the landlord, who may, if deemed necessary, serve a copy on the respective tenants.

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: July 28, 2023

Residential Tenancy Branch