



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding 0715439 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes PFR

Introduction

This hearing dealt with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for an order of possession of the rental unit to perform renovations or repairs that require vacant possession.

The landlord and the tenant were present at the hearing. The hearing process was explained to the parties, and they were given an opportunity to ask questions about the hearing process. Both parties were affirmed.

The tenant confirmed receiving the landlord's application. The landlord filed evidence and the tenant did not.

The hearing proceeded with taking testimony from the landlord regarding their accepted evidence, as will be more fully set out in this Decision.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence specifically relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy due to renovations or repairs?

Background and Evidence

This tenancy began on July 1, 2017 for a monthly rent of \$725, according to the tenant. The tenant submitted the current monthly rent is \$764.80.

In their application, the landlord claims that the bathtub and associated plumbing under the tub and floor need replacing. In their application, the landlord asserted that according to the local City Hall, a permit was not required for this scope of work.

The landlord submitted evidence with a 1-page handwritten scope of work, stating they will be the contractor, along with a 1-page written explanation, which included a statement that there will be design or structural changes to the bathroom, stating that this type of work does not require permits from the City.

The landlord said that they were just told verbally at the city office permits were not required.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 49.2 (1) of the Act provides that 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 Act states that the director must grant an order ending the tenancy and grant the landlord an order of possession if the director is satisfied that **all** the circumstances in subsection (1) apply.

Tenancy Policy Guideline 2B (B) provides the following information:

When applying to end a tenancy under section 49.2 of the RTA, a landlord must have in place all the permits and approvals required by law to carry out the renovations or repairs that require vacancy before submitting their application.

Guideline 2B provides further information as follows:

If permits are not required for the change in use or for the renovations or repairs, a landlord must provide evidence such as written confirmation from a municipal or provincial authority stating permits are not required or a report from a qualified engineer or certified tradesperson confirming permits are not required.

I find the landlord failed to satisfy the first requirement under section 49.2 (1) and therefore, it was not necessary to consider any further requirements under the Act.

Based on the above, I find the landlord has not met their burden of proof under the Act due to insufficient evidence that the building permits or approvals were in place or proof that no such permits or approvals were required for this work.

I dismiss the landlord's application, without leave to reapply.

Conclusion

The landlord's application is dismissed without leave to reapply due to the insufficient evidence cited above.

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: September 19, 2023

Residential Tenancy Branch