

DECISION

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- An Order of Possession of the rental unit to perform renovations or repairs

The Landlords attended the hearing for the Landlords.

The Tenant, a French Interpreter, and an Arabic Interpreter attended the hearing for the Tenant. At the start of the hearing the Tenant testified that she wanted the services of the Arabic Interpreter and not those of the French Interpreter. The French Interpreter then left the hearing.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

Based on the Tenant's testimony I find that the Tenant received the Proceeding Package and Landlords' Evidence on February 8, 2024 via registered mail in accordance with section 89(1) of the Act. The Landlord provided a copy of the Canada Post tracking number to confirm this service.

No evidence was submitted by the Tenant.

Preliminary Issue

Both parties agree that the rental property is a basement suite. The prefix basement was not included in the address of the rental property in this application for dispute resolution. As both parties agree that the rental property is the basement suite, in accordance with section 64 of the Act I amend this application for dispute resolution to include the prefix "basement" in the address of the rental property. Neither party objected this amendment in the hearing.

Issues to be Decided

Are the Landlords entitled to an Order of Possession of the rental unit to perform renovations or repairs?

Background and Evidence

I have reviewed all presented evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on June 1, 2019 with a current monthly rent of \$1,604.71, due on first day of the month.

Landlord T.B. testified that the Tenant resides in the basement suite of the home in which they reside. Landlord T.B. testified that the Landlords are seeking an Order of Possession because they want to build a secondary suite directly in front of the basement suite in which the Tenant resides. Landlord T.B. testified that to construct the secondary suite a large hole must be dug in front of the basement suite and that the Tenants' access to the basement suite will need to be sealed because of this hole as it would be unsafe otherwise.

Landlord T.B. testified that the Tenants' door will need to be sealed for four to six months while the secondary suite is being constructed. Landlord T.B. testified that they want to build the secondary suite to have more space for family and friends and that they may one day wish to rent it out.

Analysis

Section 49.2 of the Act allows a Landlord to seek an Order of Possession 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.

Landlord T.B. testified that they are seeking an Order of Possession because they want to build a secondary suite in front of the rental unit and this construction would require the basement suite to be sealed up. Based on this testimony I find that the Landlords do not plan to renovate or repair the rental unit in which the Tenant resides. The Landlords intend to build a secondary suite in front of the rental unit. I find that since the Landlords have not met the requirement set out in section 49.2(1)(a) of the Act, that being to renovate or repair the rental unit, the Landlords are not entitled to an Order of Possession.

While I am not required to consider if the Landlords have met the other three requirements found in section 49.2(1) of the Act, as all four subsections are required to be successful in a section 49.2 application, for good measure I will also make findings regarding section 49.2(1)(c) of the Act.

Section 49.2(1)(c) states that the renovations or repairs must be necessary to prolong or sustain the use of the rental unit or the building in which the rental unit is located. Landlord T.B. that the reason for the planned construction of the secondary suite was for additional space and for possibly renting out in the future. Residential Tenancy Branch Policy Guideline 2B provides the following examples of necessary building repairs:

- Undertaking seismic upgrades
- Updating electric wiring to code
- Installing or replacing a sprinkler system to ensure the building meets codes related to fire safety

I find that building a secondary suite for additional space for family and friends and the building of another rental unit does not qualify as a necessary repair required to prolong or sustain the rental unit or the building the rental unit is located in. I find that the Landlords have not proved, on a balance of probabilities, that the construction of the secondary suite would prolong or sustain the use of the rental building or rental unit.

In accordance with my above findings, I dismiss the Landlords' application for dispute resolution without leave to reapply.

Conclusion

The Landlords' application for dispute resolution is dismissed without leave to reapply.

This interim 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: April 18, 2024

Residential Tenancy Branch