

DECISION

Introduction

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

- for vacant possession of the rental unit to perform renovations or repairs to the rental unit

The Tenant confirmed service of the Notice of Dispute Resolution Proceeding Package and Landlord's evidence.

The Landlord confirmed service of the Tenant's evidence.

Issues to be Decided

Is the Landlord entitled to an Order of Possession of the rental unit to perform renovations or repairs?

Background and Evidence

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

Both parties testified that this tenancy began on July 12, 2020, with a monthly rent of \$700.00, due on the first day of the month.

The Landlord testified the following:

- they want to repair the ceiling in the Tenant's unit because the ceiling tiles have lots of water damage, mismatched tiles, does not aesthetically look good, and they would like to make it more sound proof
- they were told by a building inspector from the Thompson Nicola Regional District that they did not require a permit
- the ceiling is currently a drop ceiling and they would like to change it to something different, but are unsure as to what they would like to change it to
- they do not know how long the work will take to complete

The Tenant testified the following:

- the tiles in the ceiling interlock and it is not hard to replace them
- the Landlord tried to raise the rent recently by more than the allowable rent increase amount and they did not agree to the new amount - they believe this is the reason for the Landlord wanting to end the tenancy

Analysis

Section 49.2(1) of the Act states that a Landlord may make an application for dispute resolution requesting an order to end a tenancy, and an order granting a Landlord possession of a 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.

(a) Permits

Residential Tenancy Policy Guideline 2B states that when applying to end a tenancy under section 49.2 of the Act, 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. 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.

The Landlord testified that they were told by a building inspector from the Thompson Nicola Regional District that they do not require a permit for the repairs to the ceiling.

I find the Landlord has not provided the required evidence to show that permits are not required, such as a written confirmation from their municipal or provincial authority stating permits are not required or a report from a qualified engineer or certified tradesperson confirming permits are not required as required under section 49.2(1) of the Act.

(b) Vacancy required

Residential Tenancy Policy Guideline 2B states that section 49.2 of the Act allows a Landlord to apply to the Residential Tenancy Branch for an order to end the tenancy and an order of possession to renovate or repair a rental unit if the necessary

renovations or repairs require the rental unit to be vacant. While any period of time in which the unit must be vacant may be sufficient to meet this requirement, the Landlord must also prove that the only reasonable way to achieve the necessary vacancy is by ending the tenancy agreement.

Residential Tenancy Policy Guideline 2B also states renovations or repairs that require the rental unit to be vacant include those that will:

- make it unsafe for the Tenants to live in the unit (e.g., the work requires extensive asbestos remediation); or
- result in the prolonged loss of a service or facility that is essential to the unit being habitable (e.g., the electrical service to the rental unit must be severed for several weeks).

The Landlord testified that the ceiling in the rental unit is currently a drop ceiling, and they would like to change it to something different but are unsure as to what they would like to change it to.

I find the Landlord has not provided the extent and level of evidence to show that they have a concrete plan for the repairs they intend to do to the rental unit ceiling, the length of time these repairs would take or that the extent of the repairs requires vacant possession of the unit.

I also find that they have not provided any evidence that the repairs to the ceiling will make it unsafe for the Tenant to live in the unit or will result in the prolonged loss of a service or facility that is essential to the unit being habitable as required under section 49.2(1) of the Act.

(d) Whether tenancy must end

Residential Tenancy Policy Guideline 2B states the onus is on the Landlord to provide evidence that the planned work reasonably requires the tenancy to end.

The Landlord testified that they did not know how long the repairs to the ceiling would take to complete and that they did not know what type of repairs they wanted to make to the rental unit ceiling.

As stated above, the Landlord has failed to establish that they have all the necessary permits required by law (or confirmation that they do not require permits) to carry out the repairs, that the repairs require the rental unit to be vacant or that the renovations are necessary to prolong or sustain the use of the rental unit, and the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement, consequently I find the Landlord has not established the need for vacant possession.

I find the tenancy shall continue until ended in accordance with the Act.

Conclusion

The Landlord's application is dismissed, with 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 Act.

Dated: June 14, 2024

Residential Tenancy Branch