



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

### **Introduction**

This hearing dealt with the Landlord's Application for Dispute Resolution (application) for an order of possession pursuant to section 49.2 of the Act.

Those attending the hearing are listed on the cover page of this decision. At the start of the hearing, I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed testimony evidence and to make submissions to me. Only the evidence relevant to my findings is discussed below.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package), Evidence and Preliminary Matters**

I find that the Tenants acknowledged service of the Proceeding Package and documentary evidence from the Landlord and are duly served in accordance with the Act.

The Landlord stated that they did not receive documentary evidence from the Tenants. The Tenants submitted the Canada Post Customer Receipt tracking number to confirm service of evidence. The tracking results show that the mailed package was not claimed. I confirmed with the parties that the mailed package was delivered to the correct address of the Landlord.

Based the above testimony of the parties and the proof of service provided by the Tenants, I find the Tenants served their evidence to the Landlord in accordance with the Act.

## Issue(s) to be Decided

- Has the Landlord provided sufficient evidence to support that an order of possession should be granted under section 49.2 of the Act and which if granted, would be effective not earlier than 4 months after the date the order is made and comply with section 49.2(4) of the Act?

## Background and Evidence

There are no fixed-term tenancies impacted as all before me are periodic, which means month-to-month tenancies. The Landlord has applied for an order of possession pursuant to section 49.2 of the Act.

### Landlord's submission and evidence

The building (Block F Building) was built in the 1960s and is made up of 12 units over 3 levels.

The Landlord has the permits for significant renovations to the Block F Building including the following permits:

1. Building
2. Plumbing
3. Electrical

The Landlord testified that they purchased the Block F Building in 2021, and the Block F Building has presented ongoing plumbing and heating issues. The Landlord stated that they contracted local companies to inspect the Block F Building. The Landlord indicated concerns with the plumbing, mold, water leaks and related rotting, and failed and malfunctioning heating systems. The Landlord stated that the temperature fluctuated for the various units in the Block F Building, and resulted in uncomfortable heating conditions.

In their application details the Landlord stated the following:

- Remove all copper plumbing, hydronic heating piping, sewer lines. Install PEX for domestic piping and System 15 ABS Sewer lines. Remove and replace main electrical panel with 800AMP & sub (unit) panels with 100 AMP for new electric

baseboard heating, hot water tanks (12), washer/dryers, upgrade Fire Security system. Presence of asbestos throughout, will require remediation. All new bathrooms, kitchens, flooring, windows, roof, siding. No heat, water, sewer, electricity for 7-8 months

The Landlord referred to their documentary evidence of plumbing invoices and photographs to support the need for vacant possession of all units to perform renovations or repairs at the Block F Building. The invoices and photographs show the following:

- Multiple water leaks (leaking pipes), rotten wood, no hot water, and related plumbing work and repairs work to include replacement of wood, from 2021, 2022 and 2023
- Multiple heating issues, to include lack of heat, boiler and valve issues, and related electrical work in 2022 and 2023
- Repair work to the boiler in 2023
- Impact on water pressure due to leaking water lines.
- Multiple photographs that show: a bathroom tub, and water damage to the bathroom wall, water damage to additional walls and ceilings, mold, and ongoing repairs, to include water pipe repairs in the ceiling

Further the Landlords evidence shows that in 2021 a major water leak caused fire alarm activation and attendance by the fire department. The Landlord replaced and fixed water lines, and all hot water was shut off during this period of repairs.

The Landlord testified that the scope of work consists of replacement of water, heat and sewer lines in the Block F building, and that they have started such work with six other buildings owned by them.

The Landlord testified they have experienced challenges with their other buildings that are being repaired, such as asbestos detection and removal. Asbestos was present in two other buildings, and the Landlord will now proceed with Asbestos testing for the Block F Building.

The Landlord testified that they plan to commence the projected work in late fall 2024. The Landlord testified that the work is projected over an eight month period, and they require vacant possession of all units due to the scope of the work as described above. The Landlord testified that they have contractors in place for this project with the projected cost of \$700,000.00.

The building permit submitted described the project description of work as follows:

<b>PROJECT DESCRIPTION:</b>	P.I.D. 010-511-709
Application for Permission to: Remove all Domestic & hydronic heat steel and copper piping, boilers. Replace domestic piping with PEX.	
Upgrade main Electrical panel to 600-800 AMP, upgrade panels in each unit, add lighting, baseboard heating, Hot water tanks, smoke alarms in each unit.	
Replace sewer lines, Remove & replace kitchens, bathrooms, lighting, flooring	
some drywall. Add suite (s)	

The plumbing permit submitted described the project description of work as follows:

<b>PROJECT DESCRIPTION:</b>	P.I.D. 010-511-709				
Application for Permission to: Replace Domestic copper piping with PEX, add H/W Tanks, W/D, studio, replace sewer lines					
Please identify the number of fixtures/items installed on each floor of the property.					
Fixture	Basement	1 <sup>st</sup> Floor	2 <sup>nd</sup> Floor	3 <sup>rd</sup> Floor	Other
Water Closet	2	2	4	4	
Bath	2	2	4	4	
Shower					
Basin	2	2	4	4	
Sink	2	2	4	4	
Laundry Tub					
Urinal					
Floor Drain					
Other:					
Total number of Fixtures: 48					

The electrical installation permit submitted described the project description of work as follows: Upgrade main service to 800A. 100A per suite. Install baseboard heating throughout.

### Tenants' submissions and evidence

Tenant KJ testified that they do not dispute the projected work, as it is evident that the work is required and needs to be completed.

Tenant GD testified that they had a conversation with the building manager (DP) on May 17, 2024, and DP stated that no tenant would be evicted from the Block F Building, and that all tenants could move into vacant units in other buildings as provided by the Landlord. GD stated that the contractor completing the work was present, and confirmed that the projected work is being completed from "building to building," and that the tenants can move into the buildings that were already renovated.

The Landlord testified that they had a process as outlined above by Tenant GD when they were completing work on previous buildings. The Landlord testified that they originally intended for another building (Block E Building) to be renovated and available, however, Block E Building has not been completed and is not available.

Advocate DS for the Tenants referred to the Tenants' documentary evidence to include a letter from DP dated April 22, 2024. The letter indicates the Landlord is in process of renovating another building (Block B Building) and anticipate the projected to complete in July 2024. DS stated that the work on Block B Building is yet to be completed. Further DS refers to the last paragraph of the letter, in which DP states "you will have a place to move to here."

DS argued that the scope of work as shown with previous buildings, could take months to years. DS argued there is considerable time before any work will commence at Block F Building. DS argued that the Landlord does not require vacant possession of the units and they have not proven a reasonable period to accomplish the stated purpose for ending the tenancies. DS stated the Landlord will not be able to start work at Block F in late fall 2024, as they are currently committed to the same scope of work at other buildings. Further DS raised the argument of good faith, and stated that the Landlord has a dishonest motive to end the tenancy as they cannot commence work in late fall 2024.

The Landlord testified that they plan to start work at the Block F Building in late fall 2024. The Landlord testified that the project has accelerated, as they have a crew that completes work from one building to the next, and the contractors are not committed to a back and forth schedule. The Landlord stated that the scope of work demands vacant possession and they cannot complete such work unit by unit.

## Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 49.2(1) of the Act applies and states:

49.2(1) 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.

[emphasis added]

After careful consideration of all the evidence before me, I find the Landlord has provided sufficient evidence that all four parts named above from A to D have been met and that all tenancies must end as a result to permit all of the necessary work required. I have based on decision on the documentary evidence provided by the Landlord and that all of the required permits have been issued on the same date as the application was made.

Although the Tenants raised the Landlords previous plan to relocate tenants, I accept the change of circumstances with work overlapping and being completed at various times. Despite this argument, the Landlord has established that they have met all for parts of the legislation for such renovations and repairs. Further, there is no obligation under the Act that the Landlord must provide alternate housing. However, should rental units become available it would be up to the parties to negotiate a new tenancy agreement. This is not an issue that I must consider under this section of the Act.

Regarding the Tenants arguments of good faith and for the Landlord to accomplish the stated purpose within a reasonable period, I find the Landlord has established the reason to end the tenancy and project start date of late fall 2024. Further I accept the Landlord's timelines regarding the start and completion of work. I find the Landlord intends in good faith to renovate or repairs the Block F Building, has all necessary permits and approvals as required by law. The scope of work requires vacant possession, and these renovations are necessary to prolong or sustain the use of the units of the Block F Building.

I find the Landlord has proven the requirement for vacant possession to proceed with such scope of work, and it would be unreasonable and unlikely for them to succeed in hiring contractors otherwise. I find that the renovations are significant and that the building must be vacant for the renovations to be completed in the 8 month timeline proposed.

While I understand this will create a hardship on the Tenants, the Act does not contain a hardship clause that would prevent an order of possession from being issued. **The Landlord is required to compensate the Tenants as per section 51.4 of the Act.** Given the above, section 49.2 (3) and 49.2 (4) of the Act apply and state:

**49.2(3) The director must grant an order ending a tenancy in respect of, and an order of possession of, a rental unit if the director is satisfied that all the circumstances in subsection (1) apply.**

**(4) An order granted under this section must have an effective date that is**  
**(a) not earlier than 4 months after the date the order is made,**  
**(b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement**

[emphasis added]

Given the above, I grant the Landlord an order of possession effective **November 30, 2024 at 1:00 PM**. This date is a full 4 months past the date of this decision, July 10, 2024.

The Landlord must serve a copy of the attached Order of Possession on the Tenants as soon as possible.

## **Conclusion**

The Landlord's application is successful.

The tenancy must end due to renovations that require vacant possession.

The Landlord has been granted an order of possession effective November 30, 2024 at 1:00 PM. This order must be served on the Tenants and may be enforced in the Supreme Court of British Columbia.

This decision will be emailed to both parties. The order of possession will be emailed to the Landlord only for service on the Tenants.

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: July 10, 2024

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Residential Tenancy Branch