



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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**A matter regarding HELI COLD HVAC LTD.  
and [tenant name suppressed to protect privacy]  
DECISION**

Dispute Code: PFR

## Introduction

The Landlord seeks orders pursuant to section 49.2 of the *Residential Tenancy Act*.

An agent or representative for the applicant corporate Landlord and two of the three respondent Tenants attended the hearing. The agent was affirmed before giving testimony, and there were no issues regarding the service of the Landlord's evidence.

## Issue

Is the Landlord entitled to orders under section 49.2 of the *Residential Tenancy Act*?

## Evidence and Analysis

In an application for orders under section 49.2 of the *Residential Tenancy Act* (the "Act"), a landlord must prove or establish, on a balance of probabilities, that their application meets all four factors as set out in subsection 49.2(1) of the Act. This section reads as follows:

Subject to section 51.4 [*tenant's compensation: section 49.2 order*] and any prescribed conditions, restrictions or prohibitions, 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's agent gave affirmed testimony, supported by documentary evidence ("Architectural\_Plans.pdf," 25 pages, and "Building\_Permit.pdf," 6 pages), that:

1. The Landlord intends to renovate the entire upper level of a two-storey building. There are four rental units in the upper level, but only three of those are currently occupied by tenants that fall under the Act. The renovations consist of a complete gutting of the upper level, including the removal of all interior and dividing walls and the removal of all external windows. Services, such as water, sewer, and electricity will be removed. Further, the Landlord has all necessary permits and approvals required by law to carry out these renovations. I have reviewed the documentary evidence and find that this is the case. Last, the Landlord confirmed that no further permits will be needed.
2. Given the extensive nature of the renovations—that is the complete removal of walls, windows, electrical, water, and so forth—the renovations require the rental units to be vacant. It is neither feasible, practical, or sensible for any tenant to somehow continue living in a rental unit whilst renovations occur.
3. The Landlord testified that the building is approximately 50 years old, and it has never had any upgrades. The renovations are necessary to both prolong and sustain the use of the building. The renovations will result in the building receiving much-needed upgrades and to make it up to current standards and codes. There will, because of the renovations, end up being eight rental units from the current four.
4. Because the rental units must be vacant for the renovations to be completed, the only reasonable way to achieve this necessary vacancy is to end the three tenancy agreements. There is not, for example, any option of moving the Tenants around into other parts of the building while the renovations are done.

The Tenants raised the issue of asbestos and how it would be dealt with. The Landlord confirmed that whichever contractor is ultimately doing the renovations will need to put an asbestos remediation plan into place before the renos start.

That plan, however, is not needed at this point and is not a requirement under the Act. In addition, one of the Tenants questioned the Landlord's integrity, but there is insufficient evidence to persuade me that the Landlord's agent was not providing truthful and accurate testimony and evidence.

To the best of the Landlord's knowledge, and as confirmed by the two Tenants, all three tenancies are month-to-month (also called "periodic") tenancies.

In taking into careful consideration all the oral testimony, argument, and submissions, and documentary evidence, pursuant to subsection 49.2(3) of the Act, having been satisfied on a balance of probabilities that all the circumstances in subsection 49.2(1) apply, the Landlord is hereby granted an order ending the tenancies and an order of possession of the three rental units.

Further, as there are three rental units in the property, the Landlord has, in compliance with subsection 49.2(2) of the Act, made a single application for orders with the same effective date under this section.

Pursuant to subsection 49.2(4)(a) of the Act, because none of the tenancies are fixed term tenancies, the orders granted under this section of the Act shall have an effective date of January 31, 2025. This is the latest date on which the tenancies shall end, and the effective date of the orders of possession.

A single order of possession is issued with this decision. However, the Landlord must serve a copy of the order of possession upon each individual Tenant. These orders of possession must be served within two (2) days of the Landlord's receipt of this decision.

The Tenants may at any point, but are not required to, end their tenancies earlier under [section 50\(1\) of the Act](#).

Finally, it should be noted that the Tenants are each entitled to compensation in an amount that is equivalent to one month's rent payable under their tenancy agreements. The parties are referred to [section 51.4 of the Act](#) for more information on this point.

## **Conclusion**

The application is granted.

The three Tenants' tenancies are ordered ended effective no later than January 31, 2025. The Landlord is granted orders of possession for the rental units.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: September 19, 2024

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Residential Tenancy Branch