

## **DECISION**

### **Introduction**

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

- an order for vacant possession for repairs/renovations to the rental unit under section 49.2 of the Act

D.J.L. and B.V. attended for the Landlord.

W.V. attended for the Tenant.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

I find that the Tenant(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

### **Service of Evidence**

Based on the submissions before me, I find that the Tenant's evidence was not served to the Landlord in accordance with section 88 of the Act. The Tenant confirms not providing evidence to the Landlord.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

### **Facts and Analysis**

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

**Is the Landlord entitled to an order of vacant possession for the rental unit?**

The Landlord provided a copy of the required valid work permit which lists the required work as being electrical and mechanical improvements.

The Landlord affirms that the hot water boilers used to heat the building are at the end of their useful life and need replacement. The Landlord affirms that, as replacement, each unit is to be outfitted with a heat pump and supplementary electrical baseboard heaters.

The Landlord affirms that two bulkheads need to be built in the rental unit to allow for the installation of the heat pump as well to contain the pipe and duct work for the new HVAC system which will be installed at the same time. This work necessitates installation of new drywall in the rental unit and repainting of said drywall.

Additionally, the Landlord affirms this necessitates the upgrading of the building's electrical system as more power needs to be brought into the building for the new heating and HVAC systems.

The Landlord further affirms that these renovations are being done to all the units in the building group by group, and that the ones that are already finished took, on average, four weeks. The Landlord provided pictures, taken during the process, of a rental unit where renovations have already been completed. They show work being done through the rental unit, with large holes cut in most walls, and HVAC and electrical work being done.

The Tenant does not deny that the other units are being renovated, or that the Landlords plan to renovate her rental unit. She does express doubt as to the usefulness of the heat pump and desires not to have one installed, rather wanting to rely on the current boiler system.

Both parties agree that the Landlord has offered the Tenant, if she cannot make other arrangements, a short term stay in another rental unit in the same building while the renovations in her rental unit are completed. The Tenant confirms not willing to accept this arrangement and expresses her desire to stay in her rental unit.

Section 49.2(1) of the Act states 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.

I find that the Landlord has provided sufficient evidence that the first three conditions have been met. When considering if the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement, I turn to Policy Guideline 2B:

In *Berry and Kloet v. British Columbia (Residential Tenancy Act, Arbitrator)*, 2007 BCSC 257, the BC Supreme Court found that it would be irrational to believe that a landlord could end a tenancy for renovations or repairs if a very brief period of vacancy was required and the tenant was willing to move out for the duration of the renovations or repairs. If the renovations or repairs that require vacancy can be completed within 45 days or less and the tenant is willing to make alternative living arrangements for the period of time vacancy is required and provide the landlord with the necessary access to carry out the renovations or repairs, then the tenancy agreement should not need to end to achieve the necessary vacancy.

Although the Landlord affirms that the renovation would take less than 45 days, the Tenant confirms that she is not willing to move out of the rental unit for the duration of the renovations; she explicitly refused an offer from the Landlord to occupy another rental unit in the same building and denies having any other alternative accommodations arranged. Therefore, I find that the Landlord has proven that it is necessary to end the tenancy to allow the Landlord to carry out the required renovations.

The Landlord's application for vacant possession of the rental unit for renovations is here granted.

## Conclusion

I grant an order of possession to the Landlord **effective at 1:00 PM on January 31, 2025, after service of this order on the Tenant**. Should the Tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the supreme court of British Columbia

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: September 13, 2024

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Residential Tenancy Branch