



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes PFR

Introduction

On September 4, 2024, the Landlord submitted an Application for Dispute Resolution under the Residential Tenancy Act (“the Act”) requesting an order of possession for the rental unit in order to perform renovations or repair that require the rental unit to be vacant.

The matter was set for a conference call hearing. The Landlord and Tenant attended the conference call hearing.

The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing. The parties were informed that recording the hearing is not permitted.

The parties confirmed that they have exchanged the documentary evidence that I have before me. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the Landlord entitled to end the tenancy due to renovations or repairs?

Background and Evidence

It is undisputed that the tenancy began in November 2017 and that the current rent is \$1821.61 per month.

The Landlord provided testimony on the reasons why the tenancy must end and states that the financial burden of the home is too much to sustain; therefore, they intend to split the current rental unit into two separate rental units, which would require a change in layout of each floor, installation of a new furnace, new windows, as well as changes to make the rental unit in compliance with fire codes.

The Landlord submits that the current furnace is 30 years old, that the rental requires a new fence and retaining wall, that the deck requires repairs or replacement, that appliances need replacing and that trim needs to be painted. The Tenant disputes the assertion that the deck, or retaining walls require significant repairs.

The Landlord submits that they received the building permit on September 4, 2024. The Landlord provided a copy of the building permit from the city as well as the building plans.

On September 4, 2024, the Landlord applied for an order granting vacant possession of the rental unit to perform renovations or repairs.

The Tenant states that the home does not require renovations or repairs to prolong or sustain the use of the rental unit or the building.

Analysis

The Landlord applied for order granting vacant possession of the rental unit to perform renovations or repairs under section 49.2 of the Act. Under this section a Landlord does not give a tenant a Notice to End Tenancy, rather they must apply for an order and both parties are provided the opportunity to speak to the application in the hearing.

Section 49.2(1) of the Act provides that 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 am satisfied that the Landlord intends in good faith to make the changes they proposed and that they had the necessary permit and approvals at the time of making their application. I am also satisfied that the renovations require that the rental unit be vacant. However, the Landlord failed to prove that 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. Although the Landlord provided their opinion of repairs the rental unit may need in the next five years, no evidence to prove this was provided. Additionally, aside from construction related to the demolition and reconfiguration of the rental unit, the Landlord failed to prove that the repairs indicated would necessitate vacancy and termination of the tenancy.

The Landlord's application failed to meet the four requirements set forth by the Act. Therefore, the Landlord's application is dismissed, without leave to reapply.

Conclusion

The Landlord's request for an order of possession for the rental unit in order to perform renovations or repair that require the rental unit to be vacant is dismissed, without 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 *Residential Tenancy Act*.

Dated: October 10, 2024

Residential Tenancy Branch