

## **DECISION**

### **Introduction**

This hearing dealt with the Application for Dispute Resolution for Tenant S.B. and Tenant G.B. under the *Residential Tenancy Act* (the Act) for:

- Cancellation of the Landlord's Four Month Notice to End Tenancy Issued for Demolition, or Conversion of Rental Unit to Another Use (Four Month Notice) under section 49 of the Act
- An order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act
- Authorization to recover the filing fee for this application from the Landlords under section 72 of the Act

This hearing also dealt with the Application for Dispute Resolution for Tenant W.R. under the *Residential Tenancy Act* (the Act) for:

- Cancellation of the Landlord's Four Month Notice to End Tenancy Issued for Demolition, or Conversion of Rental Unit to Another Use (Four Month Notice) under section 49 of the Act
- Authorization to recover the filing fee for this application from the Landlords under section 72 of the Act

This hearing dealt with two separate Applications for Dispute Resolution that were joined together. In making the applications, the Tenants indicated they are seeking to cancel the Four Month Notices to End Tenancy for Demolition or Conversion of a Rental Unit that were served upon them. This dispute pertains to two separate residential properties and tenancy agreements. Tenants S.B. and C.G. are co-tenants for one of the subject properties and Tenant W.R. is the Tenant for the other property. Although the Tenants and the properties are different, the Landlords are the same and the properties are part of a block of land owned by the same Landlord that is slated for redevelopment. The files therefore were permitted to be joined.

Tenant W.R. did not attend; however, Tenant S.B. is authorized to Act on their behalf.

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

I find that the Landlord was served on December 11, 2024, by courier. I find that service by courier, considering the postal strike at the time, is deemed sufficiently served in accordance with section 71 of the Act.

## **Service of Evidence**

Based on the submissions before me, I find that the Landlords' evidence was served to Tenant S.B and Tenant C.G. in accordance with section 88 of the Act.

The Tenants argued Tenant W.R. did not receive the Landlords' evidence as Tenant W.R. is in hospital and could not pick up the registered mail package. The Tenants argued the Landlord was aware Tenant W.R. is in the hospital prior to serving the evidence by registered mail. The Landlord's position is that they were not provided another address for service and served the evidence by Canada Post to the rental address.

Tenant W.R. signed an authorization letter on November 24, 2024, which gave Tenant S.B. authorization to "handle all matters in filing, also giving, receiving and all things with this RTB matter". I find that the only evidence relevant to this hearing was the demolition permit which Tenant S.B. received through the evidence related to their application. I find that the Landlords served their evidence on Tenant S.B. after this authorization letter was signed. Therefore, any evidence received by S.B. was also received on behalf of Tenant W.R., given the authorization letter. Based on the above, I find that Tenant W.R. was sufficiently served under section 71(2)(c) of the Act.

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

## **Preliminary Matters**

The following issues are dismissed with leave to reapply from the application of Tenant S.B and Tenant C.G.:

- An order requiring the landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

*Residential Tenancy Branch Rules of Procedure*, Rule 6.2, states that if, in the course of the dispute resolution proceeding the Arbitrator determines that it is appropriate to do

so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the application to cancel the Notice to End Tenancy, I am exercising my discretion to dismiss the issue identified in the application of Tenant S.B. and C.G. with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

## **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.

The Tenants are disputing the 4 Month Notices for Demolition and Conversion they received from the Landlords.

The Landlords' position is that they are redeveloping the rental units and other adjacent lots into a recreational centre and currently there is no plan for any residential units. The Landlords argued the rental units will be demolished to allow for the redevelopment of the recreational centre. The Landlords argued they have permits for the demolition; however, the evidence provided by the Landlords to the RTB only contains the demolition permit for the rental unit of Tenant W.R. and no permit for the rental unit of Tenant S.B. and C.G. was provided.

### **Tenant S.B. and Tenant C.G. 4 Month Notice (Unit #1)**

The Landlords served a 4 Month Notice for Demolition or Conversion on Tenant S.B on October 21, 2024, and Tenant S.B confirmed they received it on October 28, 2024. Tenant C.G. argued they received the copy of 4 Month Notice for Demolition or Conversion belonging to Tenant W.R. (Tenant W.R. 4 Month Notice) but not a copy for their rental address and name.

Tenant C.G. and Tenant S.B. argued they disputed the 4 Month notice because of numerous errors with the 4 Month Notice. Tenant C.G and S.B argued the Landlords did not check off the box that states they have the required permits, and the Landlords never provided a copy of the demolition permit that relates to their rental unit.

### **Tenant W.R. 4 Month Notice (Unit #2)**

The Tenants argued Tenant W.R. did not receive the 4 Month Notice for Demolition or Conversion because Tenant W.R. was admitted to the hospital October 28, 2024. However, Tenant C.G. advised that because they accidentally received a copy of Tenant W.R 4 Month Notice in the mail, Tenant W.R. was able to dispute the notice and receive a copy. The Landlords argued Tenant W.R was served via Canada Post, and the tracking number was provided. The Canada Post tracking number shows 2 notice cards were left for Tenant W.R. on October 24, 2024, and October 30, 2024.

The position of Tenant W.R. is that they did not properly receive the 4 Month Notice, and the Landlord did not check off the box that states they have the required permits.

The Landlords provided the demolition permit relating to Tenant W.R.'s rental unit.

### **Analysis**

Under section 49(6) of the Act, a landlord is allowed to end a tenancy if the landlord has all the necessary permits and approvals required by law and intends in good faith to demolish the rental unit. The onus is on the landlord to establish they meet all the necessary criteria.

### **Tenant S.B. and Tenant C.G. 4 Month Notice (Unit #1)**

The Landlords did not provide a demolition permit that corresponds to the rental unit of Tenant C.G. and Tenant S.B., as such I find I am unable to confirm that the Landlord has all the necessary permits required by law, as per section 49(6) of the Act.

Based on the above, the application of Tenant S.B. and C.G. is granted for the cancellation of the 4 Month Notice under section 49 of the Act.

### **Tenant W.R. 4 Month Notice (Unit #2)**

As stated in Policy Guideline #12 "the objective of service of records is to give notice to the person being person that an action has been or will be taken against them". Case law supports that the purpose of service is fulfilled once notice has been received. In this case, I find that the purpose of receiving notice was fulfilled as Tenant W.R. received a copy of the 4 Month Notice through Tenant C.B and was able to file a dispute to cancel the 4 Month Notice. As such, I find that under section 71(2)(c) of the Act, Tenant W.R. was sufficiently served for the purpose of this Act.

Based on the demolition permit and testimony of the Landlords, I find that the 4 Month notice was issued in good faith for the purpose of demolition. Additionally, I find that the Landlords have the necessary permits, as supported by the demolition permit matching the address of W.R.'s rental address. Furthermore, given that the rental unit will be demolished and turned into a recreational centre, I find that the rental unit is required to be vacant and the only way to achieve the necessary vacant is to end the tenancy.

I find that not checking off "I have obtained all permit and approvals..." does not invalidate the 4 Month Notice, given the all the information was filled out and the permit was provided. As such, I find that the 4 Month Notice meets the requirements under section 52 of the Act

Based on the above, the application by Tenant W.R. to cancel the 4 Month Notice is dismissed. The Landlords are granted an Order of Possession for February 28, 2025.

**Is the Tenant S.B. and Tenant C.G entitled to recover the filing fee for this application from the Landlords?**

As Tenant S.B. and C.G. were successful in this application, the Tenants are entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act. The Tenants are authorized to withhold \$100.00 from one future rent payment in satisfaction of recovery of the filing fee.

**Is Tenant W.R. entitled to recover the filing fee for this application from the Landlords?**

As Tenant W.R. were not successful in this application, the Tenant's application for authorization to recover the filing fee for this application from the Landlords under section 72 of the Act is dismissed, without leave to reapply.

**Conclusion Unit #1**

The application of Tenant S.B. and C.G. is granted for cancellation of the 4 Month Notice under section 49 of the Act.

The 4 Month Notice dated October 21, 2024, for Tenant S.B. and C.G. is cancelled and is of no force or effect. This tenancy continues until it is ended in accordance with the Act.

The Landlords remain at liberty to issue another 4 Month Notice and provide the applicable permits from the City.

Tenant S.B. and C.G. are authorized to deduct \$100.00 from one future rent payment to recover the filing fee, under section 72 of the Act.

## **Conclusion Unit #2**

I grant an Order of Possession to the Landlord for the rental unit of Tenant W.R. **effective by 1:00 PM on February 28, 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.

The application for cancellation of the 4 Month Notice by Tenant W.R. under section 49 of the Act is dismissed, without leave to reapply.

The Tenant's application for authorization to recover the filing fee for this application from the Landlord under section 72 of the Act 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 Act.

Dated: January 7, 2025

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Residential Tenancy Branch