



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Code PFR

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution (Application) seeking remedy under the *Residential Tenancy Act* (Act) for an order of possession of the rental unit to perform renovations or repairs that require vacant possession under section 49.2 of the Act.

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

The parties confirmed service except for two documents which have been excluded as they were not served on the Residential Tenancy Branch (RTB) or the other party. Those documents include a Lake Salvage document from the Landlord, and a letter from DM that the Tenants did not serve on the Landlord.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules of Procedure (Rules). However, only the evidence specifically relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to end the tenancy due to renovations or repairs under section 49.2 of the Act?

Background and Evidence

The parties agreed that they did not sign a written tenancy agreement. As a result, the Landlord was reminded at the outset of the hearing to ensure that all future tenancy agreements are in writing as required by section 13(1) of the Act.

In their application, the Landlord writes the following:

The property has several safety concerns: The entire bathroom, including the bathtub and wall tiles require renovation due to possible mold issued. The flooring and carpets must be replaced due to damage caused by a previous water leak. The water heater has exceeded its warranty and must be replaced. **The entire plumbing system needs to be renovated due to deterioration.** new flooring and 30 years old carpets need to be done due to external leak.
[reproduced as written with my emphasis added]

The Landlord presented a one-page letter from TF, who was not a witness during the hearing. TF describes themselves as a “Certified Plumber” who indicates the following in part:

“...I am formally confirming that the plumbing work conducted at [address of rental unit] does not require a permit under municipal bylaws in British Columbia.

The scope of work includes **repairing leaky walls, installing a new water heater boiler, replacing the bathtub.** These tasks fall within the category of plumbing work exempt from permit requirements under local regulations...”
[reproduced as written]

The Landlord could not explain why the Certified Plumber did not mention why the “entire plumbing system needs to be renovated due to deterioration” portion of their application was not addressed by TF in the letter submitted. The Landlord stated that they spoke to a municipal inspector in PH named N but could not recall the date of the conversation and stated that it was a verbal discussion only and nothing was provided in writing to the Landlord by N.

The Tenants described the rental unit as 2 bedrooms and 1 bathroom. The Tenants also stated that when the bathtub surround and tub, if needed, are repaired, they are able to shower at a friends home located 2 minutes up the street from the rental property. The Tenants also provided a photo they state was taken on May 24, 2021, which shows the same damage as the Landlord photos supplied in 2025 with this

application. The Tenants confirmed that they only wrote to the Landlord to request a repair in writing as of November 1, 2024 and that no repairs have been completed.

The Tenants do not agree that vacant possession is required to complete the repairs to the bathroom as they can work around the repairs that they feel should have been done many years ago.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, which is more likely than not, I find the following.

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.***

[my emphasis added]

The Act states that the director must grant an order ending the tenancy and grant the landlord an order of possession if the director is satisfied that all the circumstances in subsection (1) apply.

Tenancy Policy Guideline 2B (B) provides the following information:

When applying to end a tenancy under section 49.2 of the RTA, a landlord must have in place all the permits and approvals required by law to carry out the renovations or repairs that require vacancy before submitting their application.

Guideline 2B provides further information as follows:

If permits are not required for the change in use or for the renovations or repairs, a landlord must provide evidence such as written confirmation from a municipal or provincial authority stating permits are not required or a report from a qualified engineer or certified tradesperson confirming permits are not required.

I afford very little weight to the letter from TF, as I find TF failed to mention the largest part of the plumbing job, which I find more likely than not would require permits, which is listed by the Landlord as **“The entire plumbing system needs to be renovated due to deterioration.”** I also afford no weight to a verbal conversation with a person whose last name and date of the conversation could not be recalled by the Landlord and that at the very least, the Landlord should have followed up in writing to confirm their conversation and any details provided, which the Landlord failed to do.

I also agree with the Tenants that they could work around the repairs and that since 2021, the Landlord has not repaired the bathroom and now is attempting to end the tenancy to do what I find to be a routine repair. Accordingly, I find the landlord failed to satisfy 3 requirements under section 49.2 (1) of the Act, being a, b and d listed above.

Based on the above, I find the Landlord has not met their burden of proof under the Act due to insufficient evidence that proof that no such permits or approvals were required for this work the scope of work described in the application, and that the rental unit must be vacant and that the tenancy must end to accomplish the work described.

I dismiss the Landlord’s application, without leave to reapply, due to insufficient evidence.

Conclusion

The Landlord’s application fails and is dismissed without leave to reapply.

The tenancy shall continue until ended in accordance with the Act.

This decision will be emailed to both parties at the email addresses confirmed during the hearing.

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: April 8, 2025