DECISION

Introduction

The Tenant files two applications, naming two separate respondents, both of which seek an order under s. 49 of the *Residential Tenancy Act* (the "*Act*") to cancel a Four Month Notice to End Tenancy issue for Demolition or Conversion of a Rental Unit to Another Use.

B.C. attended on behalf of the Tenant. A.B. attended as principal for the respondent Landlord, though was represented by G.S. who acted as his agent. T.G. also attended on behalf of the Landlord.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

Service of the Applications and Evidence

The parties advise that they served their application materials on the other side. Both parties acknowledge receipt of the other's application materials without objection. Based on the mutual acknowledgments of the parties without objection, I find that pursuant to s. 71(2) of the *Act* that the parties were sufficiently served with the other's application materials.

Preliminary Issue

As noted above, the Tenant has filed two applications naming two respondents. In addition, both applications are in response to separate notices to end tenancy, one signed March 27, 2025 naming the landlord as a numbered company 1163895 BC Ltd (116-), the second signed March 28, 2025 naming the landlord as 1148355 BC Ltd. (114-).

At the outset of the hearing, G.S. confirmed that the notice to end tenancy dated March 27, 2025 was served in error as it named the landlord incorrectly. I am told that 114-, the respondent on the Tenant's second application, is the Landlord and that it was relying on the notice signed on March 28, 2025.

Accepting this, I find that notice signed on March 27, 2025 was served in error and cannot be enforced. As this notice was tied to the Tenant's first application, with the file number ending -174 and naming A.B. as the respondent, I find that it should be dismissed without leave to reapply.

Accordingly, the Tenant's application with the file number ending -469, naming 114- as the respondent, proceeded on its merits. I accept that the notice subject to dispute is the one signed on March 28, 2025, and will hereafter be referred to as the Four Month Notice.

Issue to be Decided

1) Should the Four Month Notice be cancelled? If not, is the Landlord entitled to an order of possession?

Evidence 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.

General Background

The parties confirm the following details with respect to the tenancy:

- The Tenant has been residing in the rental unit for approximately 12 years.
- Rent is due on the first day of each month.
- A security deposit of $500.00 and a pet damage deposit of $250.00 was paid by the Tenant.

The Tenant's agent advised that she was uncertain if there was a written tenancy agreement when the tenancy started, though confirms that the Tenant does not have one in his possession. The Landlord's agent indicates that the Landlord purchased the residential property after the tenancy started.

1) Should the Four Month Notice be cancelled? If not, is the Landlord entitled to an order of possession?

A landlord may end a tenancy under s. 49(6)(f) of the *Act* if it has all the necessary permits and approvals required by law and intends, in good faith, to convert the rental unit to a non-residential use. As per s. 49(2) of the *Act*, when a notice is issued under s. 46(6) the landlord must give the tenant at least 4 months notice.

Upon receipt of a notice to end tenancy issued under s. 49(6) of the *Act*, a tenant has 30 days to file an application disputing the notice. Where a tenant has filed an application to dispute the notice to end tenancy, the burden of proving that the notice was issued in compliance with the *Act* rests with the landlord.

Service of the Four Month Notice and Form and Content

The Landlord's agent advises that the Four Month Notice was posted to the property on March 28, 2025. The Landlord's evidence contains a picture of the notice taped to a pole at the end the driveway at the residential property. The Tenant's agent confirms that the Tenant received the Four Month Notice, though was uncertain on when the Tenant received it.

Section 88(g) of the *Act* permits service of the Four Month Notice by attaching it to a door or other conspicuous place at the address in which the recipient resides.

The residential property, I am told, is an acreage with a single detached home located upon it which is occupied by the Tenant as the rental unit. Accepting this, I find that leaving the Four Month Notice taped to the post at the end of the driveway is a conspicuous place at the residential property. I make this finding upon review of the photograph in evidence, showing the pole is attached to a gate giving access to the residential property and would be visible by the Tenant as he came and went.

I find that the Four Month Notice was served on the Tenant in accordance with s. 88 of the *Act*. I accept that the Tenant did receive the Four Month Notice since he filed to dispute it, though the Tenant's agent could not confirm when it was received. In the absence of this confirmation, I deem under s. 90 of the *Act* that the Tenant received the Four Month Notice on March 31, 2025, being three days after it was posted to the pole at the end of the driveway.

Upon review of the information on file and in consideration of Rule 2.6 of the Rules of Procedure, I find that the Tenant filed to dispute the Four Month Notice on April 26, 2025. Accordingly, I find that the application was filed within 30 days of receipt of the Four Month Notice.

As per s. 49(7) of the *Act*, all notices issued under s. 49 must comply with the form and content requirements set by s. 52 of the *Act*. I note that s. 53.1 of the *Act*, related to generated notices, does not apply since s. 49(6)(f) of the *Act* is not specified in the Regulations under s. 42.1.

I have reviewed the Four Month Notice. I find that it complies with the formal requirements of s. 52 of the *Act*. It is signed and dated by the Landlord, states the address for the rental unit, states the correct effective date, sets out the grounds for ending the tenancy, and is in the approved form (RTB-29).

Submissions

T.G. testified on behalf of the Landlord, advising that he is assisting it in obtaining the necessary approvals with the municipality to convert the residential property to non-residential use. I am told by him that he has been engaged in his line of work for approximately 15 years.

I am directed by T.G. to council minutes for a meeting on February 10, 2025, which I am told is when planning report was tabled for consideration. T.G. indicates that this was a necessary step so that the planning report could proceed to the public input phase.

The Landlord's evidence contains a copy of the planning and development report tabled at council on February 10, 2025, which I am told by T.G. was authored by the municipal planning department (the "Report"). The Report indicates that the proposal is for the residential property, including two adjacent properties, to be used to store steel pipes, beams, and rebar and park 12 oversized trucks and trailers subject to a temporary use permit not exceeding three years.

T.G. says that the residential property does not need to be rezoned for industrial use, as it complies with the use plan for the neighbourhood. As noted in the Report, the municipal planning department recommended the requested temporary use permit proceed to public notification on the basis, in part, that the proposal complied with the neighbourhood plan.

I am further directed by T.G. to council minutes for a meeting on February 24, 2025, which indicates that the municipal council supported the temporary use permit and would consider issuing the permit upon final approval of the associated development permit.

T.G. explained that the temporary use permit would only be granted once necessary work was completed to prepare the site to meet the needs of its intended purpose. He says that councils support for the permit, as outlined in the minutes from the February 24, 2025 meeting, was the last step before work could begin in preparing the site.

T.G. directs my attention to a section in the Report outlining the work to be completed. I am told that this involved, among other things, removing trees, site grading, water management, and improved access to the property. T.G. advises that the Report, and its recommendations, have been the subject of significant work and expense undertaken by the Landlord, including environmental assessments and planning approvals.

T.G. says that the final plan will be to demolish the Tenant's rental unit, though no demolition permit has been issued at this time. T.G. further says that demolition of the residential property is not necessary to begin work at the property, and that the Tenant's continued occupancy is inconsistent with the Landlord's need to convert the residential property to the use set out in the Report.

The Tenant's agent argued that the Landlord does not have all the necessary planning approvals to convert the property to non-residential use. The Tenant's agent says that the Landlord must rezone the property, which it has yet to do. I am told that the municipal website still lists the Landlords' temporary use permit as being at the public notification stage.

The Tenant has submitted written responses from ChatGPT with respect to queries on the development process. The Tenant's agent held some of these as evidence that the Four Month Notice was served prematurely, though failed to submit any documents that corroborate the responses provided by ChatGPT.

Findings

The Landlord puts forward that it has all necessary approvals to commence work at the residential property once the Tenant has vacated the rental unit. The Tenant denies this, arguing that approvals are conditional on various work being completed beforehand.

I accept the council minutes that lead one to conclude, on its face, that the Landlord does not have all necessary permits and approvals to convert the residential property to non-residential use. However, I accept the Landlord's evidence that it has the approvals to proceed and is prepared to do so.

I place significant weight on the testimony from T.G., whom I am told and accept has knowledge and expertise in the planning and approval process at the municipality. He was unambiguous in his testimony that the temporary use permit would only be issued once necessary work was completed at the site, that there were no other approvals or permits needed from the municipality before this work started, and that work was ready to commence as soon as the Tenant has vacated the residential property.

Based on information in the Report, I accept that the temporary use permit, being the conversion of the residential property and the two adjacent properties to an industrial truck yard, is premised on preparing the property for its intended use. In other words, approval to grant the temporary use permit is premised on work being completed beforehand.

It is clear from the Report that the municipal planning department generally approves of the Landlord's plan to make use of the property with this intended purpose, provided certain conditions are met to make the site fit for purpose. Based on the Report and its various appendices, I accept that this involves, among other things, clearing the site, earth works, and improving site access.

At the February 10, 2025 council meeting, the requested temporary use permit was put to public notice. As noted in the minutes for the February 25, 2025 council meeting, after receiving some public comment on the proposal, council noted its support for the temporary use permit, subject to final approval of a development permit. The proposal is beyond the public input phase as evidenced by the minutes from February 25, 2025.

I take issue with the Tenant's submission of results from ChatGPT. To be clear, as a tool it may be used to organize and prepare a response. However, it is not evidence of anything and must include corresponding documents to support the information it

generates. That was not provided by the Tenant and, as a result, I place no weight in the information generated by the ChatGPT responses.

The evidence that was provided by the Tenant included a summary of the rezoning applications at the municipality as of April 3, 2025. I note that the summary does not include the address for the residential property. However, as noted in the Report, no rezoning is required as the purpose of the temporary use permit complies with the neighbourhood plan.

Though the Report notes that the Landlord is seeking to ultimately redevelop the property for other uses, the temporary use permit will be for 3 years, with a possible extension for another 3 years. In other words, it will be put to the purpose intended by the Landlord in serving the Four Month Notice well beyond the minimum 12 months required under s. 51(2) of the *Act*.

I find that the Landlord has established that it has all necessary approvals to proceed with preparing the site to meet the needs of the temporary use permit. I accept that the work to be undertaken at the property will be significant, such that the Tenant's continued occupancy in the rental unit is not realistic or feasible in the short term while this work is completed.

Finally, I accept that the Landlord has put significant work to bring the project forward and as stated by T.G. is prepared to proceed in the summer once the Tenant has vacated. Based on this, I find that the Landlord has established its good faith intention to carry out the purpose for which the Four Month Notice was served and will convert the property to non-residential use.

Accordingly, I find that the Landlord has established that the Four Month Notice was properly issued. The Tenant's claim to cancel the notice is, therefore, dismissed without leave to reapply.

Order of Possession

Section 55(1) of the *Act* provides that where a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with s. 52, then I must grant the landlord an order for possession.

As that is the case here, I grant the Landlord an order of possession in line with the effective date of the Four Month Notice, being July 31, 2025.

Conclusion

I dismiss the Tenant's claim to cancel the Four Month Notice, without leave to reapply.

I grant the Landlord an order of possession under s. 55(1) of the *Act*. The Tenant, and any other occupant, must provide vacant possession of the rental unit to the Landlord by no later than **1:00 PM on July 31, 2025**.

It is the Landlord's obligation to serve the order of possession and may enforce it at the BC Supreme Court.

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: May 27, 2025

Residential Tenancy Branch