DECISION

Introduction

In this decision the terms “Landlords”, “Tenants”, “Rental Building”, “First Hearing”, and “Second Hearing” are defined terms; definitions for the foregoing terms are provided on the cover page of this decision.

The hearings in this matter dealt with the Landlords’ April 11, 2025, Application for Dispute Resolution under the *Residential Tenancy Act* (the ***Act***) for vacant possession for repairs or renovations to the Rental Building, pursuant to section 49.2 of the *Act*.

I have included a list of hearing participants for the First Hearing and Second Hearing on the cover page of this decision.

Service of Records

The Landlords submitted a statement titled “certificate of personal service”, signed by MM. At the First Hearing, MD, counsel for the Landlords, identified MM as the Landlords’ agent. In their statement, MM stated that on April 17, 2025, they “sent the following tenants by registered mail via Canada Post: [all 27 Tenants listed] with the following documents [the Proceeding Package]”.

The Landlords also submitted 27 Canada Post Customer Receipts, attached to and referenced in MM’s certificate of personal service, as evidence of MM’s service of the Proceeding Package by registered mail.

After reviewing the above records, and based on MD’s submissions at the hearing, I find that the Tenants are deemed served with the Landlords’ Proceeding Package, pursuant to section 90(a) of the *Act*, on April 22, 2025, five days after MM mailed the Landlords’ packages to the Tenants, by registered mail, in accordance with section 89(1) of the *Act*.

For reasons outlined in my interim decision, dated June 16, 2025, which must be read in conjunction with this decision, the First Hearing was adjourned to July 11, 2025. In my interim decision I ordered the Landlords to “to serve each respondent with a copy of this interim decision and the included notice of hearing, by any method provided in the *Act*, within three days of receiving this decision and the included notice of hearing.”

At the Second Hearing, I found that the Landlords complied with the above order. I made the finding because the Landlords submitted a “certificate of personal service”, signed by RA, wherein RA stated that on June 17, 2025, they served 22 of the 27

Tenants (each tenant is referred to by name), with my interim decision and the hearing notice for the Second Hearing, by way of registered mail, and by posting copies of the foregoing records on the door of each tenant's rental unit.

RA attended the Second Hearing and testified that the reason they did not serve the interim decision and the notice of hearing for the Second Hearing to five of the 27 Tenants (the five tenants were identified by name) was that the five individuals moved out of the Rental Building after ending their tenancies. RA testified that they are the Landlords' property manager at the Rental Building and that they have personal knowledge of the matter. I accept RA's affirmed testimony that tenants KH, MT, SM, SH, and IK ended their tenancies and vacated the Rental Building. I note that KH, MT, SM, SH, and IK were served with the Landlords' Proceeding Package, in April 2025 and they did not place an appearance at the First Hearing, which I found they had notice of.

The Landlords acknowledged receipt of tenant LRR's evidence package, pursuant to which I find tenant LRR served their records to the Landlords, on June 5, 2025, in person, in accordance with section 88 of the *Act*, and by pre-agreed email, on June 9, 2025, in accordance with section 43 of the *Residential Tenancy Regulation*.

Counsel for the Landlords, MD, stated that while LRR's second batch of records were served after the evidence submission deadline, they do not object to my consideration of the records given to them on June 9, 2025. Consequently, in making my decision, I have considered LRR's June 9, 2025, records.

Preliminary Matter – Request for Summons

Prior to the First Hearing, DM, counsel for tenant LRR, submitted a seven-page statement, signed by DM on June 5, 2025, titled "I. PRELIMINARY MATTER - ADJOURNMENT REQUEST DUE TO NON-DISCLOSURE AND PREJUDICE".

On page three of the above record, DM listed several documents and requested a summons order from the Director.

Section 76 of the *Act* states that:

(1) On the request of a party or on the director's own initiative, the director may issue a summons requiring a person
    a. to attend a hearing under this Division and give evidence, or
    b. to produce before the director records or any other thing relating to the subject matter of the dispute.

The Residential Tenancy Branch (the **Branch**) Policy Guideline 15 provides the following guidance:

> In determining whether or not to issue the summons the director will consider the following points:
>
> 1. The information sought from the summons must be relevant to the proceedings. A summons cannot be used to go on a fishing expedition for information without any clear relevance to the issue at hand or to seek information that is suspected to exist.

2. The summons must not be an abuse of process and cannot be used to harass or annoy a party.
3. The summons cannot be used to interfere with a privilege recognized by law. For example, a summons would not be issued to a landlord's lawyer for the purpose of obtaining evidence respecting legal advice given to the landlord.
4. A summons cannot be issued where the witness in question resides outside of British Columbia.

In determining whether or not to issue the summons, the director will also weigh the importance of the evidence with the inconvenience to the witness of being summonsed to the hearing.

There are also cases where it may not be in the public interest to issue a summons. For example, it may not be in the public interest to summons a police officer to attend and give evidence, and thus take them off their regular policing duties where that evidence is not vital to the case or could be put before the director by other witnesses.

As the director may wish to hear details of the evidence that the summonsed witness will give prior to issuing the summons, a summons may or may not be issued prior to the hearing.

At the First Hearing, DM stated that they received 91 pages of records from the Landlords that "partially satisfied" their request and then proceeded to provide submissions about their client's request for site visits and all records that the Landlords' contractors relied on in making their statements.

Following the above submissions, DM stated that notwithstanding the outstanding requests, they are ready to proceed based on the additional records they received from the Landlords prior to the First Hearing.

As stated under Policy Guideline 15, summons requests "cannot be used to go on a fishing expedition for information without any clear relevance to the issue at hand or to seek information that is suspected to exist". In their seven-page statement, among other records, DM seeks the following:

a. All maintenance and capital upgrade records concerning the plumbing, HVAC, mechanical, and electrical systems of the building (and all other matters the landlord intends to renovate from 1980 to present, including:
    i. Capital expenditure logs
    ii. Receipts and invoices
    iii. Service and inspection records
    iv. Work orders
    v. Contractor agreements and scopes of work
    vi. Internal documentation evidencing any past upgrades, repairs, or replacements;

The above request is both overbroad and a fishing expedition for information of unclear relevance that may or may not exist. DM's request for receipts and invoices related to the rental building's facilities, from 1980 to 2025, is especially overbroad, unclear, and onerous. Further, it is unclear under what authority the Director can order the Landlords to provide site visits to specific parts of the Rental Building. For these reasons, even if DM had not communicated their intention to proceed with the hearing, I would have denied the summons request and proceeded with the hearing.

Background and Evidence

I have reviewed and considered all the oral and documentary evidence before me that met the requirements of the Branch's *Rules of Procedure*, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Landlords and tenant LRR called multiple witnesses, who collectively provided nearly 14 hours of testimony.

At the First Hearing, the Landlords called the following individuals as witnesses:

- NR, Architect and Managing Principal for SHAI.
- DW, Professional Engineer and the Principal for WHMCI, a consulting company.
- DN, Professional Engineer and employee of a company called N&AL.
- ND, Field Operations Manager with a construction company named AB.
- JW mechanical engineer and the Landlords' project manager and development consultant.
- RT, Landlords' relocation consultant, under the employ of NTRS.

At the Second Hearing, LRR called the following individuals as witnesses:

- Tenant LRR.
- AE, chief engineer of a company called SE.
- FT, an "expert in the field of housing policy, design & community infrastructure".

In their written submissions, MD, counsel for the Landlords, summarized the Landlords' evidence as follows:

- The Rental Building was constructed in 1967 and "many essential building components have reached the end of their serviceable lifespan and require replacement", including "the electrical, plumbing, heating and life safety systems".
- The Landlords have obtained all necessary permits and intend in good faith to renovate the Rental Building.
- The Landlords obtained a demolition permit, and the works authorized under the demolition permit require vacant possession of the Rental Building.
- The construction professionals hired by the Landlords "agree" that the Rental Building "cannot be safely inhabited while" renovation and construction is taking place, and the Landlords require at least 12 months of vacant possession.
- The Landlords will not be able to obtain insurance for the Rental Building if construction were to take place with the Tenants in the Rental Building.
- The scope of the renovation "encompasses the Necessary Upgrades discussed by the [Branch's] Policy Guideline [2B]. Specifically, the Work is to improve critical safety systems such as fire alarms, seismic upgrades, and key upgrades to electrical and other systems to bring them in line with current building code requirements."

The Landlords submitted the following statements, reports, and permits from various professionals, some of whom I identified above and whom the Landlords called as witnesses at the First Hearing:

- Statement from MS, Vice President of Special Projects for AB, the general contractor for the Landlords' project, dated March 10, 2025 (the **AB Statement**).
- Statement from SN, President/CEO and Managing Principal of N&AL, dated March 7, 2025.
- Statement from BC, associate at REG, an engineering company, dated March 4, 2025.
- Statement from NR, identified above, dated March 6, 2024 (the **NR Statement**).
- Statement from MF, associate at RJCE, dated March 6, 2025.
- Statement from RT, identified above, dated March 15, 2025.
- Statement from JW, identified above, dated March 24, 2025.
- Statement from DW, identified above, dated October 18, 2024.
- Statement from DG, Director and Construction Partner at AI, an insurance company, dated April 4, 2025.
- Budget and Scope of Work for the Landlords' proposed project dated February 28, 2025.
- Building Permit, issued by the CoV on April 11, 2025, in relation to "44 units" at the Rental Building (the **Building Permit**).
- Development Permit, issued by the CoV on April 11, 2025, in relation to the Rental Building (the **Development Permit**).

Prior to making my decision, I reviewed the above records, as well as the following records submitted by tenant LRR:

- An "Engineering Opinion Report" from AE, dated June 6, 2025.
- An affidavit from FT, made on June 4, 2025.
- A 34-page statement from FT, titled "Comments and Observations on the Binder submitted by [DL], April 15, 2025: a submission to the BC Residential Tenancy Branch Dispute Resolutions Process in regard to Application [withheld for privacy].

MS, in the AB Statement, states that they are AB's Vice President of Special Projects and that the Landlords have hired AB as the "General Contractor for the renovation of the [Rental Building]". MS also states that they have reviewed the "latest construction documentation and performed multiple site visits to understand the scop and its effects on building occupancy". At the hearing, the Landlords called ND, Field Operations Manager with AB, as a witness, who testified that:

- They are familiar with the scope of work of the Landlords' project.
- The AB Statement was made after "numerous" site visits.
- ND and other agents from AB have reviewed, among other records, design drawings, development drawings, reports from consultants, scope of work from N&AL and reports from the Landlords' architect.

- The local municipality where the Rental Building is in has issued the Building Permit and the Development Permit.
- The first stage of work in this project is interior demolition, which will take several months to complete.
- New framing, mechanical components, and other facilities will not be installed until the demolition phase is completed, which will take months.

ND provided the following details about the demolition stage of the project:

- The entire Rental Building will be shrink wrapped to allow for the safe removal of asbestos from the Rental Building's envelope.
- The Rental Building's windows will be removed.
- Installation of new windows will take months, during which time the "shrink wrap" will provide protection to the Rental Building from the elements.
- Essential systems, including electrical systems, will be decommissioned for the safety of workers, because walls be demolished.
- Among other facilities, the Landlord will be removing and replacing the Rental Building's electrical and plumbing systems, which means that the interior walls of rental units and common areas will need to be demolished.
- During the demolition stage of the project, the Rental Building's elevators will be taken out of commission and an exterior elevator system will be installed to move materials along the side of the Rental Building.

In the AB Statement, MS provided the following overview for the project:

> *We confirm that the first permit to be issued requiring vacant possession for construction to commence is the Phase 1 – Building Permit/Demolition Permit. At this stage, suite-level electrical distribution and subsequent branches will be decommissioned to ensure safety throughout the construction process. The scope of work authorized by this permit includes the removal of interior finishes, partial non-structural partitions, and outdated mechanical and electrical systems in preparation for the full renovation of the building. Subsequent permits, including a building permit and trade permits such as plumbing and electrical, will authorize the installation of new piping, wiring, and complete suite renovations, all of which necessitate vacant possession due to their disruptive nature and the requirement to meet current building codes.*
>
> *Given the extensive nature of this work, it is neither practical nor safe for tenants to remain in the building during construction. The elevators will be decommissioned, and stairwells will be inaccessible due to construction materials and ongoing work, severely limiting safe egress. The entire building will be covered in scaffolding and shrink-wrapped, with active asbestos abatement requiring strict containment measures. As exterior penetrations are made, only trained professionals with proper PPE will be permitted within proximity of these areas to mitigate exposure risks. Additionally, there will be no running water, no active power, and the entire building will function as an active construction site, presenting significant hazards that make continued occupancy impossible.*

ND testified that practically every major facility in the Rental Building is going to be replaced, and while AB has considered "phasing the work", the scope of the project is too great to allow for occupancy without major disruptions.

ND testified that “twinning” facilities, such as plumbing, as some tenants have suggested, is not practical, because there is not enough room within the Rental Building’s walls to twin every facility.

ND testified that during the project, the Landlords’ contractors would inevitably leave construction materials and tools inside the building’s hallways and staircases, which would be in contravention of different codes, including fire codes.

The Landlords’ architectural consultant, NR, testified that they are a licensed architect in British Columbia. With respect to the Rental Building’s envelope, NR testified that:

- They are hired to consult the Landlords about the Rental Building’s envelope.
- The Rental Building’s plumbing and windows are past their life cycles and the Rental Building’s envelope has developed issues.
- In their tours of the Rental Building, they have observed evidence of pipe failures and water ingress on the roof of the Rental Building.
- They have recommended to the Landlords that the Rental Building’s roof membrane and single pane windows to be replaced in full.
- They came to their conclusions based on tours of the Rental Building.
- The proposed work will improve “livability”.
- Under the Building Permit issued by the CoV, the Rental Building’s elevator must be upgraded.

Multiple witnesses from both parties provided evidence about the definition of “major renovation” under the local municipal building bylaw, and whether the Landlords’ scope of work is or is not considered “major renovation”. On page one of the Building Permit, I can see the following “NOTES” (copied verbatim, below):

1. This permit has been reviewed under the 2019 Vancouver Building By-law (#12511) with amendments effective on July 1, 2024.
2. Existing building is not sprinklered. Standpipes only.
3. Existing building is equipped with a fire alarm system.
4. Part 11 upgrade triggers for major renovation and minor vertical addition: F2, S2, N3, and A3.

NR testified that note number “4.”, copied above, signifies “upgrade triggers” that the Landlords must complete. Both parties’ witnesses agreed that if the Landlords’ project is classified as “major renovation”, that code upgrade triggers “F2, S2, N3, and A3” would be necessary.

NR testified that the S2 upgrade refers to seismic upgrades, while the F2 upgrade refers to fire protection systems. NR testified that all alarms and detectors must be upgraded, and it is irrelevant whether the current system is mechanically sound or not. NR testified that the CoV simply demands that the building be brought to modern standards, because the scope of work is determined to be a “major renovation”.

NR testified that A3 and N3 upgrades are related to door clearances, overhead mechanical services, overhead electrical components and any other structural overhead falling hazards.

NR testified that the Rental Building's envelope contains asbestos, and an air sealed envelope is necessary to remove the hazardous material during the renovation stage of the project.

NR testified that they have "never seen" a building be "tented" level-by-level during asbestos removal and during the demolition stage of the Rental Building, walls will be demolished, causing exposure to asbestos.

With respect to the Rental Building's walls, NR testified that "45%" of all interior walls will be replaced and several walls will be entirely relocated to improve the lifespan of the Rental Building. NR testified that the foregoing is also a requirement under the A3 code upgrade demanded by the municipality.

NR testified that the new "raincoat" to be installed will add an additional 30-60 years of life to the Rental Building. NR testified that a rainscreen is planned for the Rental Building.

NR testified that the Rental Building's windows are not simply being replaced with identically sized three pane windows, but in fact their frames are changing for "envelope and air handling issues". NR explained that this is another reason why the window replacement project alone is extensive and why it cannot be completed in a short period of time. NR testified that some window frames are becoming smaller, while others are becoming larger, and final measurements will only become known during the construction process, which in turn delays procurement.

NR provided evidence of upgrades planned to the Rental Building's heating and cooling facilities, which will necessitate the installation of a new transformer. NR then provided evidence of the complexities involved with installing a new transformer and working with BC Hydro and their schedules. NR testified that this part of the project will likely take months, during which time the Rental Building will only have "temporary power" to power tools and the construction project itself. NR explained that it is not possible to have an occupancy permit for the Rental Building when the Rental Building is operating with "temporary power".

At least two of the Landlords' witnesses, including NR, testified that the local municipality's engineering department has demanded, as part of the project, that municipal "sanitary and water connections" be replaced, which will mean "several weeks" of work.

Because this project is considered "major construction" by the CoV, the Landlords must introduce "cooling" facilities to the Rental Building. The Landlords, NR testified, will install an "air source heat pump". NR testified that unlike the system currently installed in the Rental Building, the heat pump is not centralized, and every unit will have its own heat source heat pump.

NR testified that their "mechanical engineer" has advised them and the Landlords that the current mechanical heating system in the Rental Building must be replaced, and in any case the Landlords must provide cooling pursuant to the upgrade triggers on the

acquired permit(s). NR testified that this work will greatly increase the lifespan of the Rental Building.

The Landlords' Project Manager & Development Consultant, JW, testified that:

- They are a professionally licensed mechanical engineer, and they provide management and consultancy services to the Landlords with respect to the technical aspects of the Landlords' renovation project.
- They have reviewed the scope of work for this project, and they can confirm that it would be unreasonable and unsafe for the Tenants to reside in the Rental Unit during the project.
- The "full rewiring" of the Rental Building's electrical system would eliminate power to the Rental Building.
- Approximately 45% of all interior walls will be demolished.
- All windows are being replaced.
- There will be no running water or functional washroom facilities during plumbing replacement.
- The Rental Building's sole elevator will be decommissioned.
- The Rental Building will experience extended periods without power while BC Hydro service upgrades take place.
- There will be complete removal and replacement of windows, exposing rental units to the elements.
- The Landlords will not be able to obtain an occupancy permit for the Rental Building in such conditions.
- The Landlords will not be able to obtain insurance if the Rental Building were to be occupied.
- The issued permits are given with the understanding that the Rental Building will be vacant.
- A generator cannot be used to power the Rental Building for extended periods of time during the renovation and construction stages, and they have never encountered anyone using a generator to power a building during reconstruction over extended number of months.
- Major building systems will be offline for 10-12 months.
- The Rental Building's envelope has asbestos.
- There is also asbestos behind pipes, which must be dealt with in a safe manner.
- Cooling and heating system upgrades are a code requirement, triggered by the fact that the project is considered a "major renovation".
- To upgrade the heating and cooling systems, the Landlords must upgrade the electrical systems.
- The heating and cooling system installation will require full re-piping, which will take 10 months in total.
- The above work will mean there will be no running water and heat for extended periods of time, and walls will be opened for extended periods.
- All the work by the Landlords will prolong the use of the Rental Building by decades.

The Landlords called DN as a witness, who testified that:

- They are the principal engineer of a company called N&AL, with 35 years of experience, 10 of which have been as an electrician.
- Their company is providing project management expertise to the Landlords.
- Their company will handle electrical contractors and dealings with BC Hydro.
- The scope of the project requires an upgrade of the Rental Building's electrical system to 600 amps, which essentially means that the Rental Building will have four times the electrical capacity.
- The new service installation will mean that the Landlords will install a new pad mounted transformer, with great disruption to the Rental Building's permanent electrical facilities.
- Based on their experience of working with BC Hydro, the Rental Building will be without permanent power for months.
- The current system must be replaced because it is old and obsolete.
- Apart from the age of the system, the need for replacement arises due to load requirements, because the Landlords require additional load for installation of cooling systems, electric vehicles, and other electrical components being introduced as part of the project.
- This upgrade will mean electrical closets will need to be installed on every floor, walls on every floor must be "cut open", and every unit will need new electrical panels.
- Code upgrade requirements mean that new fire alarm systems must be installed, and the existing systems taken out.
- Speakers will need to be installed, which mean that in every rental unit the Landlords' contractor will need to create shafts for the wiring of speakers.
- The electrical work described above will extend the lifespan of the Rental Building by at least 20 years, because new components will be installed.
- Electricity generated from a generator is only suitable for emergency situations, and applicable codes do not allow elevators to operate on generator power.

LRR's counsel enquired whether phasing the project is possible, and DN testified that, "in theory", phasing aspects and portions of the overall project is possible, but the work involved with creating "risers" in different units involves jack hammering, which is noisy, unsafe, and uncomfortable.

Throughout the First Hearing and the Second Hearing, tenant LRR and their counsel questioned the necessity of the scope of work. LRR testified that:

- Their rental unit "never get hotter than 26 degrees".
- They have never needed air conditioning in their unit, and they are not aware of anyone in the Rental Building with air conditioning.
- There are very few issues in the Rental Building.
- They are a retired commercial real estate lawyer, and they do not have any engineering or architectural expertise.

LRR called AE as a witness, who testified that:

- They have 45 years of civil engineering experience, and they have supervised renovation projects.
- They have never encountered a situation where complete vacancy was required.
- They visited the Rental Building, but their access was limited, because many doors were locked and they could not access the Rental Building's mechanical and electrical rooms.
- Major renovations will trigger code upgrades under Part 11 of the local municipal building code, but the Landlords' proposed work cannot be considered "major renovation".
- The Landlords' proposed work is all voluntary and not required.
- Major renovation would be "work within multiple tenant spaces that is not otherwise considered a minor renovation" as defined by the applicable building code.
- The Landlords are proposing work "within multiple units" and replacement of the Rental Building's envelope may trigger major renovation code triggers.
- The Landlords' written reports are conclusory and lack detail.
- Cooling would be required if the proposed work would trigger "major renovation" code upgrades, but the proposed work is not major.

AE provided evidence about why most, if not all the Landlords' proposed work, is unnecessary, considering the condition of the Rental Building and the fact that no code upgrades are going to be triggered. For example, AE testified that the Rental Building's sole elevator could be replaced in "less than a month" and in the interim the Tenants could use stairs. AE also testified that the Rental Building's electrical system looks to be in serviceable condition and the Rental Building does not need greater electrical capacity as proposed by the Landlords, because the Rental Building will not need active cooling as suggested by the Landlords. For clarity, AE's previous conclusion was based on their understanding that the proposed work cannot be considered "major renovation".

During the hearing, I asked AE to review page one of the Building Permit, which includes four notes, including the following: "4. Part 11 upgrade triggers for major renovation and minor vertical addition: F2, S2, N3, and A3." AE testified that the foregoing note is ambiguous, and it is unclear for AE, based on this one statement, whether the CoV has determined that the work to be "major renovation" or not.

AE testified that the only time full vacancy is required is during "complete reconstruction".

During cross examination, AE testified that:

- They did not inspect the Rental Building's mechanical room or the building's electrical rooms.
- They did not review the Rental Building's scope of work drawings.
- Their opinion that "major renovation" upgrade triggers are not engaged is based on the Landlords' witness letters, which are conclusory and without support.
- They disagree with the Landlords' architect, who states that the Landlords' proposed work will trigger code upgrades under the local municipal bylaw.

In their “Engineering Opinion Report”, AE stated that: “[t]he reports provided by the landlord appear to be potentially biased, as the reporting companies are likely involved in the renovation project.” At the hearing, AE testified that they do not believe the Landlords’ contractors are lying, but they may be “biased” as they are involved in the Landlords’ renovation project. AE agreed that they did not provide their own report without compensation from LRR.

LRR and their counsel, DM, called FT as a witness, who testified that:

- They are a professor at a university, and they have approximately 50 years of experience in various roles.
- They are not a professional plumber, a professional electrician, an engineer, an architect, or a general contractor, but they know how to perform the foregoing work.
- They have never conducted plumbing and wiring work in a multi-unit building, but they know what to look for.
- Their practical experience is limited to building their own house in British Columbia, work in a “log ranch” in Alberta, and building another home in Alberta.
- The Landlords’ contractors cannot be considered independent, because they will gain financially if the project were to proceed.
- They consider themselves to be independent, notwithstanding the fact that they are a guarantor for a tenant inside the Rental Building.
- They partly formed their opinions based on a “Building Condition Assessment” report for the Rental Building, dated February 15, 2023 (the **RJC Report**).
- They agree that the proposed work is “major renovation” as defined by Part 11 of the applicable bylaw.
- The Landlords’ work is a “major renovation”, because the Landlords wish to reconfigure the Rental Building, change floorplans, add additional units, walls, and they wish to change the Rental Building’s “heating system”.
- However, as evidenced by the Landlords’ own inspection report, namely the RJC Report, the primary systems for the Rental Building are in serviceable condition and not at the end of their lifecycle.
- Based on the RJC Report and their own observations, the Rental Building can be maintained and there is no need for renovations.

As with AE, FT provided extensive evidence of each specific facility and service for the Rental Building and testified that the Landlords do not need to renovate the facility. For example, FT testified that the Rental Building’s windows can be repaired within one day.

FT testified that the Landlords’ scope of work is intentionally broad to both trigger code upgrades and to support the need for eviction of the Tenants. FT testified that the proposed work does not need to be undertaken, because it is unnecessary.

FT testified that the cascade of work under the Building Permit originates from the addition of units, which itself is a choice, not a necessity.

In the alternative, FT testified, the work can be performed without the need to evict the Tenants. With respect to the foregoing, FT testified that:

- Work can be performed with “temporary power disruptions” to allow for the relocation of “breaker boxes”.
- Asbestos removal can be completed with personal protective equipment.
- The Landlords, instead of installing electrical baseboard heaters, which would require tenant removal due to the “opening of walls”, could look at alternatives.
- Instead of installing heat pumps that go to each individual unit, the Landlords could install a single-unit heat pump.
- The above would negate the need to demolish walls.

FT testified that the contractors’ statements that the Rental Building’s facilities are at the end of their lifecycle is “nonsense”, because there is zero evidence for such a conclusion.

Analysis

The standard of proof in this tribunal is balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

Section 49.2(1) of the *Act* states 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 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.

The Landlords and the Tenants provided extensive evidence about the details of the Landlord’s proposed project, including extensive evidence about the technical aspects of different types of heating and cooling systems available in the market, and whether the specific facility or service in the Rental Building is in serviceable condition.

Section 49.2 of the *Act* does not state that only in circumstances where a building component is at its absolute end of life that a landlord may seek eviction for renovation or repairs. LRR and their counsel relied on the RJC Report to show the serviceable condition of various facilities. I note that the RJC Report is a snapshot of the condition of the Rental Building in February 2023. The Landlords’ contractors provided evidence about the condition of the Rental Building in 2025.

However, even if I were to assume that very little changed between February 2023, to June/July 2025, in the face of evidence provided by the Landlords’ contractors at the

hearings to the contrary, the age of the Rental Building's components is not in dispute. In the RJC Report, the Rental Building's elevator is stated be from "circa 1968". At the Second Hearing, FT testified that when they visited a mechanical room in the Rental Building, they observed a unit manufactured in 1911. On page "ix" of FT's statement, FT states that "[a]n examination of some power boxes in suites suggests that the building was rewired and/or had the boxes in the suites replaced sometime in the 1980s and even later". On page "xii" FT states that the Rental Building was "re-plumbed" in the "late 1980's or early 1990s".

The Branch's Policy Guideline 40, with respect to the age of building components, states that pipes have a useful life expectancy of 30 years, while aluminum wiring and copper wiring have useful life expectancies of 19 years and 24 years, respectively.

Under section 32 of the *Act*, landlords have an obligation to provide and maintain their properties in a state of decoration and repair that complies with health safety and housing standards required by law and make it suitable for occupation by a tenant. I accept the evidence provided by the Landlords' witnesses that the Rental Building, in 2025, which was constructed in 1967, has many components that have reached the end of their lifecycle and need to be replaced or repaired. In this case, however, many of the projects referenced by the parties at the two hearings are code upgrade requirements, independent of the theoretical service life of the current components in place. The foregoing issue was a contentious issue at the First Hearing and Second Hearing, which I find I must address before applying the evidence to the four-part test outlined above.

The proposed project from the Landlords, which appears to be partially underway (based on the witnesses' testimony at the two hearings), is, in part, to add additional units, to reconfigure floor plans, to replace plumbing and electrical components, to add new facilities such as cooling facilities, to reconfigure window sizes and to install new windows, to remove asbestos, to add a rain screen, and to otherwise bring the Rental Building to modern standards as required by the Building Permit and Part 11 of the applicable municipal bylaw.

Based on the evidence provided by the Landlords' and LRR's witnesses, it is more likely than not that the proposed scope of work is "major renovation" as defined by Part 11 of the applicable bylaw, because the proposed work involves work in "multiple tenant spaces" and several walls are going to be reconfigured. However, notwithstanding AE's testimony, I find my determination about whether the proposed work is or is not "major renovation" is unnecessary, because I find the Building Permit is substantially clear that the Landlords' proposed work triggers "Part 11" code upgrades. This is clearly outlined on page one of the Building Permit. Finally, FT, LRR's main witness, testified that there is no doubt that the Landlords' proposed work is major renovation, which would trigger, among others, seismic and fire and safety code upgrades.

With respect to bias, which was an issue raised by LRR's witnesses on several occasions, I note that section 75 of the *Act* states that the rules of evidence do not apply to dispute resolution proceedings. The Branch, as a matter of course, routinely accepts,

where necessary and appropriate, hearsay evidence from contractors in dispute resolution hearings.

In this case, authors for most of the Landlords' reports were present at the First Hearing to provide affirmed or sworn testimony and every witness was cross examined by LRR's counsel. The question, therefore, is whether the Tenants proved that the Landlords' contractors lied or misrepresented pertinent facts for financial gain. I find, to the extent that this was the issue raised by the Tenants, that this was not proven. The question of whether the Landlords' contractors are lying was posed to AE at the Second Hearing, who, in their own report, stated that the Landlords' contractors "appear to be potentially biased". AE testified that they are not of the opinion that the contractors are lying, only that they may be biased, because they will gain financially from the project moving forward. If this explanation was sufficient to exclude evidence from the Landlords' contractors, it would mean that practically every quote and estimate submitted to the Branch in dispute resolution proceedings would need to be excluded, because the evidence *could* be tainted by the promise of personal gain. I find, to the extent that LRR's request was that I set aside the evidence provided by the Landlords' contractors for bias, that LRR failed to prove bias solely because the same contractors would gain financially from the project moving forward.

I now turn my mind to the first leg of the four-part test, under section 49.2 of the *Act*: "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".

I find the Landlords proved that they have all the necessary permits and approvals required by law to carry out the renovations or repairs. This portion of the first leg was not in contention. The Landlords submitted the Development Permit and the Building Permit into evidence. On the Building Permit, I can see the following statement: "This permit is issued for PHASED construction under the Certified Professional Program." In the foregoing permit, I can see reference to other permits necessary for additional phases of the project. As explained by the Branch's Policy Guideline 2B, "[a] landlord does not need to show that they have every permit or approval required for the full scope of the proposed work or change", only those required to cover the extent of work that requires vacancy.

I further find the Landlords proved that they intend, in good faith, to renovate or repair the Rental Building. LRR's counsel, DM, stated that when facilities that do not need upgrading are upgraded, then it is a sign of bad faith, because the reason for the upgrade is financial interest (higher rent). The Branch's Policy Guideline 2B, with respect to the issue of "good faith", provides as follows:

> Good faith means a landlord is acting honestly, and they intend to do what they say they are going to do. It means they are not trying to defraud or deceive the tenant, they do not have an ulterior purpose for ending the tenancy, and they are not trying to avoid obligations under the RTA or MHPTA or the tenancy agreement. This includes an obligation to maintain the rental unit in a state of decoration and repair that complies with the health, safety and housing standards required by law and makes it suitable for occupation by a tenant (section32 (1) of the RTA).

> However, conversion of a rental property to another use that is motivated, in part, by avoidance of new and significant costs does not automatically result in a finding of bad faith: Steeves v. Oak Bay Marina Ltd., 2008 BCSC 1371.
>
> If a landlord applies for an order to end a tenancy for renovations or repairs, but their intention is to re-rent the unit for higher rent without carrying out renovations or repairs that require the vacancy of the unit, the landlord would not be acting in good faith.
>
> If evidence shows the landlord has ended tenancies in the past for renovations or repairs without carrying out renovations or repairs that required vacancy, this may demonstrate the landlord is not acting in good faith in a present case.

With respect, DM's submissions are a misunderstanding of the element of good faith outlined under the first leg of section 49.2 of the *Act*. The good faith is with respect to the requirement that the Landlords do what they say they are going to do. This is evidently clear from the language of the *Act* itself, but it is explained in further detail by the above policy guideline. There is no dispute in this case that the Landlords intend to renovate or repair the Rental Unit and that the Landlords have engaged numerous contractors for the purposes of this renovation. In fact, the Tenants themselves argued that the same contractors will be benefiting if an eviction is ordered. I find the Landlords proved that they intend, in good faith, to renovate or repair the Rental Building.

The second element of section 49.2 of the *Act* is whether the Landlords proved that "the renovations or repairs require the rental unit to be vacant[.]" For the reasons that follow, I find this element of the test was also proven, on a balance of probabilities.

The Branch's Policy Guideline 2B provides the following guidance:

> In *Berry and Kloet v. British Columbia (Residential Tenancy Act, Arbitrator)*, 2007 BCSC 257, the BC Supreme Court found that "vacant" means "empty". Generally, extensive renovations or repairs will be required before a rental unit needs to be empty.
>
> In *Allman v. Amacon Property Management Services Inc.*, 2006 BCSC 725, the BC Supreme Court found that a landlord cannot end a tenancy to renovate or repair a rental unit just because it would be faster, more cost-effective, or easier to have the unit empty. Rather, it is whether the "nature and extent" of the renovations or repairs require the rental unit to be vacant.
>
> Renovations or repairs that require the rental unit to be vacant could include those that will:
>
> - make it unsafe for the tenants to live in the unit (e.g., the work requires extensive asbestos remediation); or
> - result in the prolonged loss of a service or facility that is essential to the unit being habitable (e.g., the electrical service to the rental unit must be severed for several weeks).
>
> Renovations or repairs that result in temporary or intermittent loss of an essential service or facility or disruption of quiet enjoyment do not usually require the rental unit to be vacant. For example, re-piping an apartment building can usually be done by shutting off the water to each rental unit for a short period of time and carrying out the renovations or repairs one rental unit at a time.

> Cosmetic renovations or repairs that are primarily intended to update the decor or increase the desirability or prestige of a rental unit are rarely extensive enough to require a rental unit to be vacant. Some examples of cosmetic renovations or repairs include:
>
> - replacing light fixtures, switches, receptacles, or baseboard heaters;
> - painting walls, replacing doors, or replacing baseboards;
> - replacing carpets and flooring;
> - replacing taps, faucets, sinks, toilets, or bathtubs;
> - replacing backsplashes, cabinets, or vanities.

Several of the Landlords' witnesses testified that 45% of the Rental Building's interior walls will be demolished, that every window in the Rental Building will be removed and their frames resized (final sizes will be determined at a later stage based on "building envelope and air handling" considerations), and that the window replacement project will take months to complete. Multiple witnesses from the Landlords testified that the Rental Building's elevator will be decommissioned for different reasons throughout the project. For example, DN testified that during the electrical demolition phase (transformer replacement), the Rental Building's elevator cannot operate on generator-sourced electricity (for safety reasons). Other witnesses provided evidence that the mechanical components of the elevator system will be removed and replaced. ND testified that the Landlords' contractors will install an exterior elevator system to move materials on the side of the Rental Building.

At least one witness provided evidence that during the demolition phase of the project, access in the hallways and staircases will be greatly impacted, which is a fire code violation. I accept this uncontested testimony.

Evidence was provided showing that asbestos in the Rental Building is not limited to the exterior walls of the Rental Building, but also the interior of units, especially behind pipes, which would be exposed during their removal and at the time of demolition of walls. LRR's witnesses agreed that the Rental Building's walls have asbestos inside them.

The Landlords submitted a letter from DG, Director and Construction Partner at AI, an insurance company, dated April 4, 2025. In the letter, DG states that they are "submitting this letter to provide an insurance perspective on the proposed renovations at [the Rental Building]". DG further states:

> The nature of the proposed renovations, as I understand them and as described in the construction plans; includes demolition works, removal of interior finishes, partial structural modifications, and upgrades to electrical and mechanical systems. Given the extent of these activities, there are significant safety risks, including fire hazards, structural instability, exposure to hazardous materials, and compromised emergency access. All of these present significant risks during the renovation term, but also create insurance risks. It is highly unlikely that insurance companies would be willing to provide insurance on the building, or the construction works, if inhabitants were to continue residing in their respective units during the performance of these works.
>
> From an insurance standpoint, maintaining tenant occupancy during such extensive work poses an increased liability risk. Primary concerns would include:

1. Life Safety Hazards – The presence of tenants in an active construction zone increases the likelihood of accidents, injuries, and general health concerns due to dust, noise, and potential exposure to hazardous materials.
2. Property Damage Risk – Demolition and system overhauls may lead to unforeseen damages, water intrusion, or fire hazards, elevating the risks on site during construction and posing additional risks to inhabitants.

Given the comprehensive scope of work, it is our professional assessment that vacant possession is the most prudent course of action to ensure safety and mitigate insurance related risks. This approach aligns with industry best practices for renovation projects of this scope.

I agree with the Landlords' counsel and witnesses that the proposed project must be considered in its totality, not its individual components as was apparently FT's and AE's suggestion. For example, it may be possible to occupy the Rental Building during a brief window replacement project, but not when simultaneously 45% of all walls are being demolished, all windows removed for extended periods of time, window frames are re-sized, utility pipes taken out, electrical wires removed, the elevator taken out of commission, building shrink wrapped for extensive asbestos removal, corridors blocked by construction material, and more.

Based on all the above, I find the proposed work, some of which I have outlined above, makes it unsafe for the Tenants to live in the Rental Building. I further find the Landlords proved that essential services or facilities, essential to the Rental Building, for example, electrical services, will be severed for at least "several weeks", which is the definition of "prolonged loss" under the Branch's Policy Guideline 2B.

Prior to moving to the next leg of the test, I will address LRR's evidence. Both FT and AE testified that the proposed works are unnecessary and that the Landlords do not need to add cooling facilities to the Rental Building, which would in turn trigger the need for additional electrical load. AE testified that *if* the project is classified as "major renovation", then cooling would be required. I have already found that the project is "major renovation" under the applicable bylaw. I accept the evidence provided by the Landlords' witnesses that the cooling systems proposed for the Rental Building are, at least party, to satisfy code requirements from the local municipality. I further accept the Landlords' evidence that the foregoing would necessitate additional load and electrical upgrades.

FT testified that they have no practical experience with major multi-unit projects, especially a tower the size of the Rental Building, nor are they an architect, an electrician, an engineer, a general contractor, or a plumber. Their experience in constructing a single-family home, combined with their academic expertise "in the field of housing policy, design & community infrastructure", as they describe in their affidavit, does not tip the balance of the vacancy question in LRR's favour. The Landlords' witnesses have, collectively, decades of practical experience in construction and renovation of multi-unit buildings.

AE, however, is a civil engineer. They testified that they have direct experience with renovation projects, and they have never encountered a situation where a full vacancy was required. This testimony is, for obvious reasons, not determinative on its own. AE

testified that they did not inspect the Rental Building's mechanical room or the Rental Building's electrical rooms. Most importantly, however, AE testified that they have not reviewed the Rental Building's scope of work drawings.

In their June 6, 2025, "Engineering Opinion Report", AE stated that "full vacancy of the building is not the only reasonable solution" and they go on to explain why various system upgrades are entirely unnecessary. It is unclear, from reading their report, whether their opinion that vacancy is not required is based on their opinion that upgrades are not required in the first place. Even if I were to ignore this issue and rely on their statement in the conclusion section of their report, which states: "[p]ractical, phased alternatives exist and are commonly employed in similar projects, significantly reducing the scope of tenant displacement required[,]" I would be forced to give far less weight to this evidence, because they testified that they have not reviewed the Rental Building's scope of work drawings and they appeared entirely confused about the level of work involved in this project, because they testified that the project is not a "major renovation", even when the Building Permit and every other witness was substantially clear on this issue. In short, AE's evidence was unreliable, and I cannot give it substantial weight in the circumstances.

The next leg of the four-part test is whether "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[.]" The Landlords proved this part of the test, on a balance of probabilities. While it goes without saying that new electrical and plumbing facilities will prolong or sustain the use of the building, several of the Landlords' witnesses provided detailed evidence, including the number of additional years that the Rental Building would gain from system upgrades.

I note that code requirements under the acquired permits require seismic upgrades. Policy Guideline 2B states that seismic upgrades are an example of an upgrade that would meet the requirement of this leg of the test.

Finally, section 49.2(1)(d) of the *Act* states that "the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement."

I note that the above is not about whether vacancy itself is required, but whether the required vacancy is for such an extended period that the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement.

Policy Guideline 2B, on this issue, provides the following guidance:

> 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. The right of first refusal (see below) contemplates new tenancy agreements being provided at least 45 days before the renovations or repairs that ended the tenancy are completed. If the timeframe is longer than 45 days, it may be unreasonable for the tenancy agreement to continue even if the tenants are willing to make alternative living arrangements. The longer the timeframe, the less likely the

> tenant can be considered to retain the rights of possession and use contemplated for tenancy agreements, as established in the RTA, and for which the tenant pays rent.

The evidence provided by the Landlords' witnesses was that the proposed project will take at least 12 months. LRR's witnesses and their counsel primarily focused on establishing whether the Rental Building is or is not in need of the proposed work and they provided no evidence about whether the project, as proposed, would take less than 45 days, or even substantially less time than the testified 12 months. Prior to making my decision, I reviewed FT's and AE's statements in detail.

On page 13 of FT's 34-page statement, titled "Comments and Observations on the Binder submitted by [DL], April 15, 2025: a submission to the BC Residential Tenancy Branch Dispute Resolutions Process in regard to Application [withheld for privacy]", I can see the following statement from FT:

> Given that some tenants have chosen to move out, we suggest that in cases where upgrades to the remaining, occupied units may best be accomplished by a short-term relocation of the tenant, that the landlord make provision to temporarily relocate the tenant to a vacant suite within the building. Tenants are willing to accommodate the landlord in this way.

Even if I were to assume that FT spoke for the Tenants, as defined on the cover page of this decision, not just a select few, as explained by Policy Guideline 2B, which explanation is based on the decision of *Aarti Investments Ltd. v. Baumann*, 2019 BCCA 165, "the tenant's willingness to move out and return to the unit later is not sufficient to establish objectively whether vacant possession of the rental unit is required."

I accept the uncontested evidence provided by the Landlords that the project will take at least 12 months. Under these circumstances, in consideration of the guidance provided by Policy Guideline 2B, I find the only reasonable way to achieve the necessary vacancy is to end the tenancy agreements for the Tenants.

Based on all the above, I find the Landlords established all the requirements of section 49.2 of the *Act*. Section 49.2(3) of the *Act* states that the director *must* grant an order ending a tenancy in respect of, and an order of possession of, a rental unit if the director is satisfied that all the circumstances in subsection (1) apply. Consequently, I grant the relief sought, pursuant to section 49.2(3) of the *Act*.

Section 49.2(4) states that an order granted under this section must have an effective date that is not earlier than four months after the date the order is made. I grant the Landlords an order of possession with respect to the Tenants' tenancies, effective December 31, 2025.

The Tenants have a right of first refusal. Put more plainly, the tenants are entitled to enter into a new tenancy agreement for the rental unit, which agreement takes effect once renovations or repairs are completed. A tenant wishing to exercise this right must give the Landlords a notice that they want to be able to exercise this right by completing form #RTB-28 "Tenant Notice: Exercising Right of First Refusal". This notice must be completed and given to the Landlords before the respective rental unit is vacated.

Conclusion

The Landlords' request for an order of possession to perform renovations or repair that require the Rental Building to be vacant is granted. I grant the Landlords an order of possession with respect to the Tenants' tenancies, effective December 31, 2025.

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: August 8, 2025

Residential Tenancy Branch