

DECISION

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- An Order of Possession for the rental unit in order to perform renovations or repair that require the rental unit to be vacant, pursuant to section 49.2;

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Tenant acknowledges service of the Proceeding Package and is duly served in accordance with the Act.

Service of Evidence

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

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Issues to be Decided

Is the Landlord entitled to an Order of Possession to perform renovations or repair that require the rental unit to be vacant?

Background and Evidence

This tenancy started on April 1, 2011. On October 8, 2025, the Landlord made an application seeking vacant possession of the rental unit to perform renovations and repairs. The residential property containing the rental unit comprises of multi-family dwellings (townhouses) and contains 40 units.

Landlord's arguments, evidence, and testimony

The Landlord says that the rental unit was built in the early 1970s and that no improvements have been made to important systems in the rental unit since they were first installed at the time the rental unit was completed. The Landlord states that these

systems are significantly declining and/or failing because of their age, or at an increased risk of doing so.

The Landlord argues that the rental unit contains asbestos materials, which will require special remediation during the repairs and renovations, which consequently will prolong the work and also require a longer period of vacancy for health and safety reasons. Although they have not tested this specific unit for asbestos, the Landlord has provided an hazardous materials survey dated December 7, 2023, which was revised on February 3, 2024, from a similar unit on the property – stating that all units in the townhouse complexes were built at the same time with the same building materials and therefore it is reasonable to assume that this rental unit also contains the same asbestos materials.

The Landlord states that they intend to proceed with the following renovations and repairs which require vacancy:

- Plumbing (due to increased risk of leaks)
 - Water and drain re-piping, removal of old piping
 - New toilets, sinks faucets, showers and tubs
- Electrical rewiring
 - New, up to code wiring as current wiring does not meet building code
- HVAC – complete replacement of whole system (to prevent mold)
 - Removal of old fans and ducts
 - Installation of new fans and ducts
- Structural remediation
 - Rotting wood needs to be replaced to ensure structural integrity
- Flooring
 - Replacement of kitchen floors

The Landlord states that the work will take 4-5 months, and much, if not all, of this time requires the rental unit to be vacant due to the invasive nature of the work as well as the fact that there will be asbestos abatement and danger of exposure during some of the work.

The Landlord says that the asbestos removal would occur first, with a separate contractor performing this work. Afterwards, the general contractor would begin their work. Given the scope of the work, the Landlord explains that the rental unit would not be habitable and needs to be vacant because electricity would be shut off, water would be shut off, walls would be cut open, floors would be bare and unclad, and the ventilation system would not be operational while the HVAC is replaced.

The Landlord states that they have provided proof that the permit has been applied for and granted, however, the actual permit itself is not provided until work commences. Specifically, the Landlord states that the permit approval process has finished and that a permit number has been provided. The Landlord has provided their fee slip, showing the permit number and fee payment on September 29, 2025. The Landlord has also supplied the building drawings that were submitted with the permit application. The Landlord notes that construction has commenced on other units that voluntarily vacated to allow the Landlord to proceed with the renovations and repairs.

Tenant's arguments, evidence, and testimony

Relating to the building permit, the Tenant argues that the municipality would have issued building permit(s) once the permit application process was concluded and approved. Upon hearing the Landlord's statements during the hearing, the Tenant states they are ready to accept the Landlord's testimony under oath that they are in possession of a valid building permit, however, they note that an approved permit itself has not been provided to the Tenant nor the arbitrator within the evidence.

The Tenant also believes that the true motive for the renovations and repairs is to increase the rent, noting that other similar "renovictions" by the Landlord have resulted in rent increases of over 100%.

The Tenant says that it is unfair for the Landlord to extrapolate the asbestos findings from a different rental unit onto the rental unit in question. As the asbestos report in the Landlord's evidence pertains to flooring and the roof, the Tenant states that these can be different between separate units.

The Tenant pointed to case law precedents as contained in Policy Guideline #2B to assert that their arguments below have been tested in the courts.

The Tenant argues that the Landlord's pursuit of vacancy is for convenience rather than necessity. Specifically, the Tenant says that the Landlord wishes to commence multiple repairs and renovations concurrently for efficiency, and that the repairs and renovations can be completed in a piecemeal manner while permitting continued occupation. The Tenant agrees that vacancy is required for asbestos abatement and remediation but doubts that this segment of the vacancy would require vacancy exceeding 45 days and believes the asbestos work will be minimal.

The Tenant states they are willing to vacate the rental unit temporarily for up to 45 days if required.

The Tenant also argues that the Landlord's planned repairs and renovations fall under the category of "unlikely to require vacancy" when considering Appendix A of Policy Guideline 2B. The Tenant states that the Landlord's position that the work is necessary to prolong the life of the rental unit is speculation and not necessarily true. The Tenant has supplied numerous photos of the rental unit and items that the Landlord intends on

repairing or renovating to substantiate their position that the rental unit is in good condition with no requirement for renovations or repairs at this time.

Analysis

Applicable law and policy

Section 49.2(1) of the Act says 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.

Policy Guideline 2B discusses considerations relating to the requirement for vacancy of the rental unit in order to end a tenancy for renovations or repairs, including court precedents. Any period of time in which the unit must be vacant may be sufficient to require the tenancy to end, however, a landlord must prove that the circumstances are such that the only reasonable way to obtain the vacancy needed for the renovations or repairs is for the tenancy to end.

In *Berry and Kloet v. British Columbia (Residential Tenancy Act, Arbitrator)*, 2007 BCSC 257, the court found that “vacant” means “empty” and that an arbitrator must determine, as a practical matter, whether the rental unit needs to be empty for the renovations to take place. Furthermore, it is irrational to end a tenancy for renovations or repairs if the vacancy requirement is brief and the tenant was willing to move out for the duration of the renovations or repairs.

In *Allman v. Amacon Property Management Services Inc.*, 2006 BCSC 725, the court found that cost efficiency or ease of work are not relevant factors to determining if the rental unit needs to be empty. Rather, the nature and extent of the renovations or repairs and how that ties into the requirement for vacancy is what must be considered.

In *Aatari Investments Ltd. v. Baumann*, 2019 BCCA 165, the court of appeal found that, where vacancy is proven to be required for an extended period of time, then the tenant’s willingness to temporarily vacate is not a factor in determining whether or not vacant possession of the rental unit is required.

Based on these court precedents, the period of time requiring vacancy has become an important factor to determine. Policy Guideline 2B states that, if 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 required vacancy, then the tenancy does not need to end. If the timeframe is longer than 45 days, then it may be unreasonable for the tenancy to continue even if the tenant is willing to temporarily vacate.

Lastly, a landlord seeking an end to a tenancy for renovations or repairs must be acting in good faith. "Good faith" is a legal concept and means that a party is acting honestly when doing what they say they are going to do, or are required to do, under the Act. It also means there is no intent to defraud, act dishonestly or avoid obligations under the legislation or the tenancy agreement.

In *Gichuru v. Palmar Properties Ltd.*, 2011 BCSC 827, the Supreme Court of British Columbia held that a claim of good faith requires honesty of intention with no ulterior motive. To reiterate, when the issue of an ulterior motive or purpose for ending a tenancy is raised, the onus is on the landlord to establish that they are acting in good faith (see *Baumann v. Aarti Investments Ltd.*, 2018 BCSC 636). In disputes where a tenant argues that the landlord is not acting in good faith, the tenant may substantiate that claim with evidence.

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.

Overall findings

Having reviewed the evidence and testimony of the parties, on the balance of probabilities, I conclude that the renovations and repairs are likely required despite the Tenant's arguments that the rental unit is in good condition. I accept that the items that the Landlord is seeking to renovate or repair are likely to be original, and therefore over 50 years old. Policy Guideline #40 lists the useful life of building elements, and I observe that the items that are to be renovated or repaired have exceeded their useful life – in many cases well beyond the average number of years. For example, copper electrical wiring has a listed useful life of 24 years.

I also accept that the Landlord is seeking an end to the tenancy for renovations and repairs in good faith. The Landlord made their application while under the genuine impression that they need the rental unit to be vacant so that renovations and repairs can commence. This can be true even if the Landlord has been transparent about their intention to significantly increase the rent after the renovations and repairs are completed. Currently, there is no limit to rent increases after a tenancy ends for renovations or repairs. I am convinced that the Landlord's primary motivation is the actual need for the work to be carried out due to the age of the building and associated items slated to be repaired and renovated.

Regarding the building permit, I am convinced that the Landlord has obtained the building permit necessary to commence their work as they have provided evidence of the permit number, payment, and have stated under oath that they have the permit approval. I accept that a copy of the permit itself has not been issued because the work has not commenced.

I must grapple with the Tenant's argument regarding the possibility of piecemeal repairs and renovations rather than an all-at-once approach, which changes the need for vacancy. The Tenant has connected the Landlord's all-at-once approach to convenience and efficiency, which are not permissible factors for obtaining vacancy.

I conclude that the intention of the law and policy relating to convenience is to prevent landlords and contractors from relying on general convenience of work as a reason to seek a vacant unit. In essence, if the scope of the work can be completed while the rental unit remains occupied, then the tenancy should not end – even if it would have been more convenient for the rental unit to be vacant during the work.

However, I do not find that the policy was intended to affect the intended scope of the work itself. In other words, a landlord is not required to scale back or divide up the scale of their planned work in terms of renovations or repairs in an effort to preserve the tenancy. I find that a renovation and/or repair project that is truthfully intended to be undertaken by a landlord must be assessed in its entirety.

Regarding the asbestos, I find it is a safe assumption that the rental unit contains asbestos materials and that the hazardous material survey of a similar unit located on the same residential property can be extrapolated onto the rental unit in question. I also conclude that the scope of the asbestos removal is likely to be more major than minor, because it would involve flooring and the roof, rather than an isolated small area.

I conclude that the scope of the work is necessary to prolong the use and life of the rental unit, especially given that it is over 50 years old. Appendix A of Policy Guideline 2B indicates that a full rewire of the rental unit as well as major asbestos remediation may constitute a significant disruption and require vacancy. At the same time, minimally disruptive jobs such as the partial demolition of interior walls, replacement of floors, HVAC and plumbing system replacements together will add to the vacancy requirement for the overall project. Thus, I conclude that the scope of the work will require the rental unit to be vacant for more than 45 days.

The only reasonable way to achieve the necessary vacancy, which I believe will take at least 46 days and which may take up to 4-5 months as per the Landlord's estimate, is to end the tenancy. Therefore, the Landlord's application is granted, and I shall issue an Order of Possession. In recognition of the long duration of the tenancy, in accordance with Policy Guideline #54, I have set the Order of Possession date for April 30, 2026, at 1:00 PM so that the Tenant has more time to move out.

Conclusion

I grant an Order of Possession to the Landlord effective on **April 30, 2026, at 1:00 PM**, after service of this Order on the Tenant(s). Should the Tenant(s) or any occupant 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.

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 6, 2026

Residential Tenancy Branch