



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding 0715439 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes PFR

Introduction

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

NB and SK appeared as agent for the corporate landlord. DH (the "Tenant") appeared on their own behalf.

The parties were cautioned that recording of the hearing is prohibited pursuant to Rule of Procedure 6.11. The parties were given full opportunity under oath to be heard, to present evidence and to make submissions.

Service

As both parties were in attendance, I confirmed that there were no issues with service of the landlord's Notice of Dispute Resolution Proceeding package and the parties' evidence. In accordance with sections 88 and 89 of the Act, I find that both parties were served with the other's application materials.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy due to renovations or repairs?

Background and Evidence

The Tenant testified that they have resided on the property for approximately 15 years. The current landlord purchased the property on March 1, 2022 and the tenancy continued. Monthly rent is \$850.00 due on the first day of the month. A security deposit in the amount of \$425.00 was collected which the landlord continues to hold in trust.

The Landlord is seeking vacant possession of the rental unit to perform renovations or repairs. The landlord's application states the following:

Property was purchased as is and i kept the previous tenant. Currently Home insurance company has denied insurance due to the properties condition. There is no home insurance and a liability issue. I care about the tenant but need it vacated to renovate. I have a report from the insurance company with required work needed. There is asbestos, structural damage, water damage, electrical issues. Property is needed to be vacant to renovate and fix these issues

[reproduced as written]

The landlord submitted a Pre-Demolition Survey conducted by T.J. Environmental and a Report from Precise Services into evidence to support their application.

NB testified that the property requires repairs because in its current condition, it is uninsurable. NB testified that it is unsafe for occupancy or for an engineer to enter the home for the purpose of issuing permits for the work that is required.

NB testified that in order for the house to be safe enough for the landlord to acquire the necessary permits, Hazmat needs to remove all of the drywall from the entirety of the house in order to clear all of the asbestos from the property. NB testified that the house is required to be vacant for this process. NB testified that once this process is complete, the necessary permits will be obtained. NB testified that the entire process of obtaining permits and completing the required work could take 6 months to a year.

When questioned, NB testified that no permit is required for Hazmat to do the work required to clear the asbestos from the property in order for it to be safe enough for permits to be obtained.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

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.

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.

While the BR submitted that no permits are required for Hazmat to complete the work they purport to be required, the landlord has provided no written confirmation from a municipal or provincial authority stating permits are not required nor have the provided a report from a qualified engineer or certified tradesperson confirming permits for this work are not required. I find BR's testimony alone insufficient to establish that no permits are required for Hazmat to remove all of the drywall from the entirety of the house in order to clear all of the asbestos from the property. Further, I find that it is evident to me that the landlord is not in possession of all the necessary permits and approvals required by law to carry out the renovations or repairs based on BR's testimony that permits will not be obtained until after the Hazmat work is complete.

Based on the above, I find the landlord has not met their burden of proof under the Act due to insufficient evidence that necessary permits and approvals required by law to carry out the renovations or repairs are in place.

For that reason, I find that the landlord failed to satisfy the first requirement under section 49.2 (1) and therefore, it is unnecessary for me to consider anything further.

I dismiss the landlord's application, without leave to reapply.

Conclusion

The landlord's application is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 6, 2023

Residential Tenancy Branch