



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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A matter regarding Kerr Properties 002 Ltd. and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Code: PFR

### **Introduction**

The Landlord seeks orders pursuant to section 49.2 of the *Residential Tenancy Act*.

An agent or representative for the applicant corporate Landlord and three respondent Tenants attended the hearing. The agent was affirmed before giving testimony, and there were no issues regarding the service of the Landlord's evidence.

### **Issue**

Is the Landlord entitled to orders under section 49.2 of the *Residential Tenancy Act*?

### **Evidence and Analysis**

In an application for orders under section 49.2 of the *Residential Tenancy Act* (the "Act"), a landlord must prove or establish, on a balance of probabilities, that their application meets all four factors as set out in subsection 49.2(1) of the Act.

This section reads as follows:

Subject to section 51.4 [*tenant's compensation: section 49.2 order*] and any prescribed conditions, restrictions or prohibitions, 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 Landlord's agent gave affirmed testimony, supported by documentary evidence ("Page\_9\_hazmat.pdf, Pages\_1\_to\_3\_Hazmat.pdf, pages\_4\_to\_6\_hazmat.pdf, Pages\_7\_and\_8\_hazmat.pdf, peelingasbestosstiple1.jpeg, peelingasbestosstiple2.jpeg, Hazmatshowingasbestos14.pdf, Hazmatshowingasbestos15.pdf, Building\_Permit.pdf, Unit38drawingsandpermit.pdf, Permitcityofvernon.pdf, and drawingscityofvernon.pdf), that:

1. The Landlord intends to renovate three rental units, which are three-storey townhouses with unfinished basements. All affected townhouses are currently occupied by the respondent Tenants. The renovations consist of a complete gutting of the property, including services, such as water, sewer, and electricity will be removed. Further, the Landlord has all necessary permits and approvals required by law to carry out these renovations. I have reviewed the documentary evidence and find that this is the case. The Landlord did note that perhaps one additional permit is required, but not available until the rental units are vacant. This, I find, is often the case.
2. Given the extensive nature of the renovations—that is the complete gutting right down to the beams and studs—the renovations require the rental units to be vacant. It is neither feasible, practical, or reasonable for any of the Tenants to continue living in the rental units during the renovation.
3. The Landlord testified that the building was probably built in the 1970s ("but don't quote me," the agent added). The renovations are necessary to both prolong and sustain the use of the building. The renovations will result in the building receiving much-needed upgrades and to make it up to current standards and codes. The Landlord testified that the building is structurally deteriorating. In fact, the flooring joists appear not to have been properly built, such that the top two floors of the rental units are compromised. There is, in other words, a structural safety concern. This would be remedied during the renovations.
4. Because the rental units must be vacant for the renovations to be completed, the only reasonable way to achieve this necessary vacancy is to end the three tenancy agreements. There is not, for example, any option of moving the Tenants around into other parts of the building while the renovations are done. Nor, as the Landlord explained, any adjoining available rental units.

The Tenants asked the Landlord various questions. For example, whether there were any other available rental units for rent. And one question about the Tenants' rights of first refusal. The Landlord did their best to answer these questions.

The Landlord confirmed that all three tenancies are month-to-month (also called "periodic") tenancies.

In taking into careful consideration all the oral testimony, argument, and submissions, and documentary evidence, pursuant to subsection 49.2(3) of the Act, and satisfied on a balance of probabilities that all the circumstances in subsection 49.2(1) apply, the Landlord is granted an order ending the tenancies and an order of possession for the three rental units.

Further, as there are three rental units in the property, the Landlord has, in compliance with subsection 49.2(2) of the Act, made a single application for orders with the same effective date under this section.

Pursuant to subsection 49.2(4)(a) of the Act, because none of the tenancies are fixed term tenancies, the orders of possession granted under this section of the Act will have an effective date of March 31, 2025. A single order of possession is issued with this decision. However, the Landlord must serve a copy of the order of possession upon each individual Tenant. These orders of possession must be served within two (2) days of the Landlord's receipt of this decision.

The Tenants may at any point, but are not required to, end their tenancies earlier under [section 50\(1\) of the Act](#).

Finally, it should be noted that the Tenants are each entitled to compensation in an amount that is equivalent to one month's rent payable under their tenancy agreements. The parties are referred to [section 51.4 of the Act](#) for more information on this point.

## **Conclusion**

The application is granted.

The Tenants' tenancies are ordered ended effective no later than March 31, 2025. The Landlord is granted an order of possession for the rental units.

The Landlord is requested to provide a printed hard copy of this Decision to each of the Tenants.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: November 27, 2024