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 pursuant to section 49.2 of the Act.

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

(T.A.S.)
(K.E.)
(M.E.)
(J.S.)
(O.B.)
(C.L.)

Tenant T.A.S. confirmed service of the Proceeding Package and Landlord's evidence.

Tenant K.E. confirmed service of the Proceeding Package and Landlord's evidence.

Tenant J.S. confirmed service of the Proceeding Package and Landlord's evidence.

Tenant O.B. confirmed service of the Proceeding Package and Landlord's evidence.

Tenant T.A.S. confirmed service of the Proceeding Package and Landlord's evidence.

I find that the Landlord provided Tenant M.E. a copy of the Proceeding Package and evidence by providing it to the Tenant in person on June 24, 2025, in accordance with section 89 of the Act. The Landlord provided as evidence the Proof of Service Notice of Dispute Resolution Proceeding Package #RTB-55 form to confirm this service.

The Landlord's agent confirmed service of the Tenant's evidence.

Preliminary Matters

At the outset of the hearing, the Landlord's agent testified that the parties had been before the Residential Tenancy Branch for the Landlord's application for an order of possession pursuant to section 49.2 of the Act. I have included the previous file number on the cover page.

The Tenant's legal counsel testified that the current application is the same as the previous one, with the same expert witness – the plumber, the only difference with the current application is that the Landlord has provided additional evidence.

The Landlord's current application under description states: Please see reno description.

The Landlord provided as evidence the reno description which provides the following:

The building in question is 116 years old. Although we have repaired the domestic supply lines in places, we have not replaced the cast iron drain lines. They are original. These lines reached their end of life some time ago and are now crumbling. In places they are so thin any attempt to clamp leaks just crushes the pipe. We fear they are at risk of imminent failure.

Unlike the supply lines, all apartments in a column (106, 206, 306, 406…) are serviced by the same 3 or 4" pipes. Any attempt to replace the pipe in one unit renders all the other units in the column uninhabitable.

The process will entail gutting all the bathrooms in the column completely and replacing all supply and sewage plumbing. The ceiling, wall surfaces and floors will then need to be replaced.

We have recently completed the same process for the #04 column in the same building. The work took in excess of 6 months and the units were unhabitable while under construction as none of the plumbing (sinks, bathtubs or toilets) were functional.

In addition, due to the building's age, WCB rules required abatement of hazardous materials. The process of abatement also requires that the unit be empty of tenants and their belongings.

The Landlord's previous application under description provides the exact same wording as the current application and the evidence they provided for that hearing labelled reno description is identical to the current application.

In Erschbamer v Wallster, 2013 BCCA 76, the following is provided:

[12] The general principles of the doctrine of res judicata were reviewed by this Court relatively recently in Cliffs Over Maple Bay. The doctrine has two aspects, issue

estoppel and cause of action estoppel. In brief terms, issue estoppel prevents a litigant from raising an issue that has already been decided in a previous proceeding. Cause of action or cause of action estoppel are not met, it may be possible to invoke the doctrine of abuse of process to prevent relitigation of matters.

[13] In Cliffs Over Maple Bay, Madam Justice Newbury set out the requirements of issue estoppel at para. 31(from Carl Zeiss Stiftung v. Rayner & Keeler Ltd. (No. 2), [1967] 1 A.C. 853 at 935, as quoted with approval in Angle v. Minister of National Revenue, 1974 CanLII 168 (SCC), [1975] 2 S.C.R. 248 at 254):

> (1) that the same question has been decided;
> (2) that the judicial decision which is said to create the estoppel was final; and,
> (3) that the parties to the judicial decision or their privies were the same persons as the parties to the proceedings in which the estoppel is raised, or their privies....

I find there is no basis for rehearing the current application. The parties in the previous and current application are the same. Although the Landlord may have some new evidence, the majority of the evidence is the same as the evidence provided in the previous application. The current application at its core is the same. Both of the Landlord's applications provide the same renovation description as evidence. The previous decision was final.

Conclusion

I find the matter before me has previously been decided by way of a decision dated May 13, 2025. Therefore, I dismiss this application, 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 Act.

Dated: July 24, 2025

Residential Tenancy Branch