

# Landlord-Tenancy in BC

## Part 3

### Ending Tenancy for Renovation or Repair

“How about some mushrooms with that?”

*June 2009*  
*Mark Warkentin*



#### *Residential Tenancy Act Section 49(b)(b)*

- S.49 allows Landlord under various circumstances to terminate tenancy to allow Landlord to have use of property
- S.49(6)(b) deals with Landlord renovating or repairing:

s.49(6) A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:

...

(b) renovate or repair the unit in a manner that requires the rental unit to be vacant...

- 3 essential elements—you want these covered in case there is a dispute:
  1. all necessary permits and approvals:
    - be prepared to prove what permits are necessary and that you have them
    - you may want to get a letter from City, or a letter from a contractor confirming you have permits
    - EG, building permits, electrical permits, heritage permits, approval of strata, etc.
  2. in good faith
    - you must actually carry out the intended work
    - don't try to use as a loophole
  3. in a manner that requires unit to be empty
    - no practical way to work around the tenant
      - flooring is more serious than cabinets
      - whole unit more serious than just one room
    - the time period must be commercially reasonable—don't deliberately stretch it out
    - if the tenant offers to vacate while the work is done, you may not meet this criteria

Some final thoughts:

- There are no 100% guarantees: any tenant can take a challenge, whether there are grounds or not.
- The courts have decided that, since the *Act* was put in place to protect the tenant, it will be interpreted in favour of the tenant
- You should always consider a win-win negotiated settlement rather than getting into a dispute

Further reading:

*Berry and Kloet v. British Columbia (Residential Tenancy Act, Arbitrator)* 2007 BCSC 257

**“Stick to the good mushrooms!”**