



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

matter regarding RAAMCO INTERNATIONAL PROP CDN and SEAGATE APARTMENT  
and [tenant name suppressed to protect privacy]

## **REVIEW HEARING DECISION**

Dispute Codes      CNC

### Introduction

This matter came before me as a result of a Judicial Review in the British Columbia Supreme Court.

On September 28, 2015, the Honourable Madam Justice Power ordered that a Review Hearing Decision dated June 8, 2015, was set aside and remitted the matter back to the Residential Tenancy Branch for a re-hearing of the review.

This matter deals with the Tenant's Application for Dispute Resolution, seeking to have a one month Notice to End Tenancy for cause cancelled. The one month Notice was issued on February 13, 2015, with an effective date of March 31, 2015.

This review hearing was scheduled before me on October 9, 2015, at 9:00 a.m. The Tenant did not appear in support of her Application. Only the Agents for the Landlord appeared at the in person hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matters

At the outset of the hearing the two Agents for the Landlord testified that the Tenant had been removed from the rental unit by a Bailiff the day before this hearing. The Landlord had obtained an order of possession based on unpaid rent, in a different file before the branch, and the file number for that matter is set out on the cover page of this decision for ease of reference. According to the Agents for the Landlord, the Bailiff removed the Tenant and her belongings from the rental unit on October 8, 2015.

Nevertheless, as this matter was remitted by order of the Supreme Court, the hearing proceeded to deal with the particular issues on review.

### Issue(s) to be Decided

Should the original decision and order of March 30, 2015, be confirmed, varied or set aside?

### Background and Evidence

According to the record before me, this was a long term tenancy. In October of 2002 the parties entered into a new written tenancy agreement. Apparently the Tenant had been living in a different apartment in the same building for several years and had moved into the subject rental unit under this new tenancy agreement.

In December of 2014 and in the early months of 2015, there were several complaints from other renters in the apartment building about the behaviour of the Tenant. They wrote letters of complaint setting out that the Tenant had disturbed them, which were provided in evidence for the original hearing of March 30, 2015, by the Landlord.

The disturbances included the Tenant entering another renter's apartment without authority to do so and throwing a television at the occupant in that unit, throwing outdoor furniture around which did not belong to her, and making loud noise disturbing other renters. In addition to these, the Tenant was witnessed kicking a dog that belonged to a guest of a renter and using abusive language with this person. An Agent for the Landlord had also recorded the Tenant throwing a fan at the door of the office in the rental building.

On or about February 13, 2015, the Landlord issued the Tenant a one month Notice to End Tenancy for cause, setting out that the Tenant had significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health or safety or lawful right of another occupant or the Landlord, and had put the Landlord's property at significant risk, among the causes listed. The effective date of the one month Notice to End Tenancy was March 31, 2015 (the "Notice").

The Tenant filed an Application for Dispute Resolution on February 27, 2015, seeking an order to cancel the Notice and a hearing by telephone conference call was scheduled for March 30, 2015. The Tenant did not attend this hearing and a Decision and order of possession were granted to the Landlord pursuant to section 55 of the Act (the "Original Decision").

The Tenant filed for a review consideration of the Original Decision, alleging she was unable to connect to the conference call on March 30, 2015. The review consideration granted a new hearing which was set for May 28, 2015. The Tenant attended this hearing but alleged she was unable to hear the Arbitrator over the phone, and then disconnected from the call. The Arbitrator for this hearing adjourned the matter to an in person hearing on June 8, 2015, and ordered the parties to attend.

The June 8, 2015, hearing was conducted and the Arbitrator dismissed the Tenant's Application and confirmed the Original Decision.

The Tenant applied to the British Columbia Supreme Court for a judicial review of the June 8, 2015, decision. The Tenant was successful in the judicial review and the matter was remitted back to the branch for the re-hearing before me today. The reasons for the honourable court to remit the matter back to the branch were not before me, only the order requiring the branch to conduct a new review hearing.

In the interim of the above matters, according to the testimony of the Agents appearing before me today the Tenant ceased paying rent on the rental unit. The Agent testified that rent was due for June, July, August, September and a portion of October, all in 2015. The Agents referred me to the decision and order of possession they obtained on October 2, 2015, based on unpaid rent in the file number referenced above.

According to the Agents the Tenant and her possessions were removed from the rental unit by the Bailiff under a writ of execution on October 8, 2015.

### Analysis

Based on the above, the evidence and testimony, the record of prior proceedings, and on a balance of probabilities, I find the Application for Dispute Resolution of the Tenant to cancel the Notice must be dismissed.

I have reviewed the letters of complaint against the Tenant filed in evidence by the Landlord, along with the testimony of the Agents for the Landlord before me today. I find the Landlord had adequate reasons and evidence to support the Notice for cause, and that it was validly given.

I find the Tenant created unreasonable disturbances at the building that affected other occupants and the Tenant has seriously jeopardized these occupants' lawful rights to quiet enjoyment.

Furthermore, the Tenant failed to attend the in person hearing today in support of her Application.

For the above reasons I find the Tenant's Application must be dismissed without leave to reapply.

Having made the above findings I confirm the Original Decision and order of possession granted on March 30, 2015.

In any event, the tenancy has collaterally ended as the Tenant has vacated under operation of the Decision and order of possession for non-payment of rent, obtained under the different file heard on October 2, 2015.

### Conclusion

The Tenant's Application for Dispute Resolution to cancel the one month Notice to End tenancy for cause is dismissed without leave to reapply. The Original Decision and order of possession from March 30, 2015, are confirmed and remain in full force and effect.

The tenancy has also ended under a different decision and order of possession based on unpaid rent, as referenced herein.

The Tenant has vacated the rental unit as of October 8, 2015.

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

Dated: October 09, 2015

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Residential Tenancy Branch

