



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Raamco International Properties Canadian Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPB; MNR; MNDC; MNSD; FF

### **Introduction**

This is the Landlord's Application for Dispute Resolution seeking an Order of Possession; a Monetary Order for unpaid rent; compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit towards its monetary award; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

I determined that the Tenant received the Notice of Hearing documents and copies of the Landlord's evidence, by registered mail, on November 24, 2015.

The Landlord's agents stated that the Landlord is withdrawing its application for a monetary award because the Tenant has paid all rent up to and including December 31, 2015. The Landlord's agents also stated there was a change in management at the rental property and that they are seeking assistance in resolving an error on two Notices of Rent Increase, effective March 1, 2014 and March 1, 2015.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession based on a Mutual Agreement to end the Tenancy?
- Did the Tenant overpay rent from March 1, 2014, to December 1, 2015?

### **Background and Evidence**

This tenancy began on March 1, 2011. At the beginning of the tenancy, monthly rent was \$575.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$287.50.

The Landlord's agents gave the following testimony:

Over the course of the tenancy, the Landlord issued several Notices to End the Tenancy, both for cause and for unpaid rent. The previous management did not seek to enforce any of the Notices. On July 27, 2015, the current management issued another

One Month Notice to End Tenancy for Cause, effective August 31, 2015. The Tenant asked for more time to vacate the rental unit and the Landlord accepted a Mutual Agreement to End the Tenancy effective September 30, 2015. The Tenant did not move out of the rental unit on September 30, 2015, and therefore the Landlord seeks an Order of Possession for breach of the agreement. The Landlord's agents stated that they are requesting the Order of Possession to be effective December 31, 2015.

The Landlord provided four Notices of Rent Increase effective March 1, 2012, April 1, 2013, March 1, 2014 and March 1, 2015.

The Tenant gave the following testimony:

The Tenant testified that she did not do anything to give the Landlord cause to end the tenancy. She stated that she signed the Mutual Agreement to End Tenancy in the presence of her BC Housing worker and that the Landlord did not sign it. She questioned the validity of the Agreement.

The Tenant stated that the Landlord communicated directly with her BC Housing worker, which was a breach of her privacy.

The Landlord's agents gave the following reply:

The Landlord's agents stated that the BC Housing group pays 50% of the Tenant's rent each month and that the BC Housing group has an agreement with their clients (including the Tenant) that they may speak to a landlord if there are problems with their client who is that landlord's tenant. The Landlord's agents stated that the Tenant became upset when the Landlord communicated with the BC Housing group and therefore, at the Tenant's request, the Landlord does not communicate directly with the group anymore with respect to this Tenant.

**Analysis**

I accept that the Landlord's agents' testimony that there was an agreement that the Landlord could communicate directly with the BC Housing group with respect to any problems with the tenancy. I also accept the undisputed evidence that the Tenant signed the Mutual Agreement to End the Tenancy on August 21, 2015. I find that the fact that the Landlord did not sign the Mutual Agreement to End the Tenancy does not invalidate the Agreement. It was created by the BC Housing group in cooperation with the Landlord in order to provide the Tenant with more time to move out, as she had requested. I find that the tenancy ended on September 30, 2015.

The Landlord has been successful in its application for an Order of Possession and I find that it is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

With respect to the Notices of Rent Increase, I find that the two latter Notices are not valid. Section 42 of the Act provides that a landlord must not impose a rent increase for at least 12 months after the effective date of the last rent increase. In this case, the Landlord issued notices that were effective March 1, 2012, April 1, 2013, March 1, 2014 and March 1, 2015. I find that the earliest effective date for a rent increase in 2014 was April 1, 2014, and therefore the earliest effective date for 2015 was April 1, 2015. Having found that these two Notices are not duly issued, I find that rent remained at \$615.00 for 2014 and 2015. The Tenant has paid \$625.00 for March – February, 2015, and \$635.00 for March – December, 2015. Therefore I find that the Tenant overpaid rent, as follows:

March 1, 2014 to February 1, 2015 (\$10.00 x 12 months)	\$120.00
March 1, 2015 to December 1, 2015 (\$20.00 x 10 months)	<u>\$200.00</u>
TOTAL	<b>\$320.00</b>

I hereby set off the cost of the filing fee against the overpayment of rent, and provide the Tenant with a Monetary Order in the amount of **\$270.00** against the Landlord.

### **Conclusion**

I hereby provide the Landlord with an Order of Possession effective **1:00 p.m., December 31, 2015**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Tenant with a Monetary Order in the amount of **\$270.00** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

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*.

December 9, 2015

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Residential Tenancy Branch

