



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RAAMCO INTERNATIONAL PROPERTY CANADIAN LTD. AND
GATEWAY PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNR OPR

Introduction:

Both parties were present at the hearing and gave sworn testimony that the 10 Day Notice to End Tenancy dated July 2, 2016 was served July 2, 2016 by posting it on the door and the tenant served the Application for Dispute by posting it on the landlord's door. I find the Notice to End Tenancy was legally served pursuant to section 88 of the *Residential Tenancy Act* (the Act) but the tenant's Application was not served legally according to section 89 of the Act as an Application for Dispute Resolution must be served personally or by registered mail. The tenant applies to cancel the Notice to End the Tenancy for non-payment of rent dated July 2, 2016 to be effective July 15, 2016.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. It is undisputed that the tenancy began on February 1, 2016. The current rent is \$975 and a security deposit of \$487.50 was paid on January 22, 2016. The landlord's agent testified that the tenant failed to pay the rent for July 2016 and was served with a Notice to End the Tenancy on July 2, 2016. The female tenant paid \$600 on July 4, 2016 and said the male tenant would pay the remaining \$300. In the Application, the male tenant said he offered the landlord cash and was refused. However, the landlord said the male tenant only came to the office and gave them an application form for the landlord to complete so he could obtain disability benefits. He pointed out that they had accepted the \$600 earlier and it would make no sense for them to refuse the lesser balance of payment. In the hearing, the tenant said he had the money but admitted he had not paid rent for August 2016 either. The tenant said they had obtained another place for next month.

If the tenant is unsuccessful, the landlord requested an Order for Possession effective August 31, 2016. He noted the tenant owes \$1350 now for rent, which is \$975 for August and \$375 for July 2016.

Analysis:

The Notice to End a Residential Tenancy is based on non-payment of rent. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where

the tenant disputes that rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from the rent. Although the tenant disputed the Notice in time, I find the landlord's evidence more credible that the male tenant did not offer the balance of the rent in time. I find the landlord's evidence is supported by the fact that they accepted the first \$600 paid by the female tenant and I concur with their reasoning that it would be inconsistent for them not to accept another offered payment. I therefore dismissed the tenant's application to cancel the Notice to End the Tenancy on this ground. I also find the tenant did not legally serve his Application under the Act as he did not provide personal service or service by registered mail as required under section 89 of the Act so I dismiss his Application on this ground also.

Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 46 and has upheld the Notice. The landlord has made this request at the hearing. As a result I grant the landlord an Order for Possession effective August 31, 2016 as requested. Pursuant to section 55(4) (b) as amended, I also grant a monetary order for the outstanding rent in the amount of \$1350. The security deposit remains in trust to be dealt with pursuant to section 38 of the Act after the tenant vacates.

Conclusion:

I grant the landlord an Order for Possession effective August 31, 2016. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I dismiss the tenant's application. The filing fee was waived.

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*.

Dated: August 16, 2016

Residential Tenancy Branch