



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: CNC, FF

## Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end the tenancy. Both parties participated in the conference call hearing and had opportunity to be heard.

## Issue(s) to be Decided

The issue to be decided is whether the landlord has cause to end the tenancy.

## Background and Evidence

The parties agreed that the tenancy began on May 15. The tenant provided a copy of his rent cheque for the month of May which was dated May 5. On August 2 the landlord served the tenant with a notice to end tenancy for cause, alleging that the tenant had repeatedly paid rent late. The landlord claimed that rent was due on the first day of each month and the tenant claimed that rent was due on the fifth day of each month. There is no written tenancy agreement. The tenant provided copies of his cheques showing that rent for June was paid on June 3, rent for July was paid July 5 and rent for August was paid on August 1.

## Analysis

Residential Tenancy Policy Guideline 38 states that a landlord must prove that a tenant has paid rent late on 3 occasions in order to support a notice to end tenancy for

repeated late payment of rent. As rent for May was paid 10 days before the tenancy began and rent for August was paid on August 1, there are only two other months in which rent could have been paid late, if rent was due on the first of the month.

### Conclusion

I find that the landlord has failed to prove that the tenant has paid rent late three times and accordingly find that the notice to end tenancy must be set aside. As a result the tenancy will continue. The tenant is entitled to recover the \$50.00 paid to bring this application and may deduct this sum from future rent owed to the landlord.

Dated September 04, 2008.