



# Dispute Resolution Services

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

## Decision

### Dispute Codes:

CNR

### Introduction

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence, to cross-examine the other party, and to make submissions to me.

At the hearing the Tenant acknowledged that he inadvertently requested to Cancel a One Month Notice to End Tenancy for Cause. This portion of the Tenant's Application for Dispute Resolution was withdrawn by the Tenant, as the Landlord never served him with a One Month Notice to End Tenancy.

### Issue(s) to be Decided

The issue to be decided is whether the Notice to End Tenancy for Unpaid Rent, served pursuant to section 46 of the *Residential Tenancy Act (Act)*, should be set aside.

### Background and Evidence

The Landlord and the Tenant agree that the Tenant is required to pay monthly rent in the amount of \$600.00. The parties agree that the Tenant has not paid rent since February of 2008.

The Tenant stated that he has been unable to pay his rent for the last several months as he has been negotiating a settlement with WCB, and that he will be unable to pay his rent until he reaches a settlement. The Landlord and the Tenant agree that they have had numerous discussions regarding the outstanding rent and that the Landlord was aware that the Tenant was waiting for a settlement with WCB.

The Landlord and the Tenant agree that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of September 20, 2008, was served on the Tenant on September 10, 2008. The Notice indicated that the Notice would be

automatically cancelled if the Landlord received \$4,550.00 within five days after the Tenant is assumed to have received the Notice. The Notice also indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental by the date set out in the Notice unless the Tenant files an Application for Dispute Resolution within five days.

The Tenant filed an Application for Dispute Resolution seeking to dispute the Notice on September 11, 2008.

### Analysis

As the Tenant acknowledged receiving the Notice to End Tenancy on September 10, 2008, I find that the Tenant was sufficiently served for the purposes of this *Act*, pursuant to section 71(2)(c) of the *Act*.

Section 26(1) of the *Act* stipulates, in part, that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of the rent. In the circumstances before me, there is no evidence to indicate that the Tenant has the right to deduct any portion of the rent. I therefore find that the Tenant failed to pay the rent for many months, as required by legislation.

Section 46(1) of the *Act* stipulates, in part, that a landlord may end a tenancy if the tenant fails to pay rent that is due.

### Conclusion

After considering all of the written and oral evidence submitted at this hearing, I find that the Landlord has the right to end this tenancy, as the Tenant has not paid rent for many months. On this basis, I dismiss the Tenant's application to set aside the Notice to End Tenancy for Unpaid Rent and I grant the Landlord an Order of Possession, as requested at the hearing, which is effective two days after it is served upon the Tenant.

Date of Decision: October 09, 2008