



# Dispute Resolution Services

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

## **AMENDED DECISION AND REASONS**

Dispute codes: CNR, FF

### Introduction

This was an application by the tenant to cancel a 10 day Notice to End Tenancy for unpaid rent. The hearing was conducted by conference call. The tenant and the landlord participated in the hearing.

### Background and evidence

The tenancy began in December, 2007 and runs from month to month with rent in the amount of \$950.00 due in advance on the first day of each month. The tenant paid a security deposit of \$475.00 on or about November 30, 2007.

The tenant was served with a 10 day Notice to End Tenancy for unpaid rent; he applied to dispute the Notice. He provided no documentation in support of his application. The tenant testified that he has not paid rent since February, 2008, but he has performed construction and renovation work for the landlord on another property owned by the landlord. The tenant's contention is that the landlord owes him money for work performed and he is entitled to forgiveness of rent for that unpaid work. The tenant was apparently injured on the landlord's property; the tenant filed a workers' compensation claim with respect to his injury and he maintained at the hearing that he was therefore entitled to forgiveness of rent while that claim was outstanding.

The landlord testified that the tenant failed to pay rent on or after February, 2008 and instead of evicting the tenant he employed him to perform work on one of his properties, not the rental property. There are no written agreements between the parties and there is no written tenancy agreement. The landlord has paid the tenant sums of money totaling \$11,500.00 for work that he performed. The tenant has performed no work for the landlord since in or about August, 2008 and he has paid no rent since February. The tenant acknowledged these facts.

### Analysis and conclusion

It is my finding that the agreement between the landlord and tenant concerning work to be performed by the tenant and payment of compensation for that work is an agreement separate and distinct from the tenancy agreement between the parties. I find that I have no jurisdiction to adjudicate any dispute between the parties concerning the contract for construction or renovation services to be provided by the tenant and the payments to be made for those services; further the parties have not provided me with any documentary evidence that would allow me to determine what amounts, if any might be due to the tenant. The evidence presented to me established that the tenant has failed to pay rent for many months. The landlord finally served the tenant with a Notice to End Tenancy for unpaid rent. The tenant has not provided evidence that would allow me to find that he performed services in lieu of rent; he was paid for work performed, but his complaint is that he was not paid for all the hours worked. The fact that the landlord did not pursue the tenant for non-payment of rent for many months is unrelated to the contract or employment dispute between the parties.

The tenant's application to cancel the Notice to End tenancy is therefore dismissed without leave to reapply. The landlord requested that I grant an order for possession. Section 55 of the *Residential Tenancy Act* permits me to grant the landlord an order for possession where a tenant's application to dispute a Notice to End Tenancy has been dismissed. I find that the landlord is entitled to an order for possession effective November 20, 2008 after service on the tenant. This order may be filed in the Supreme Court and enforced as an Order of that Court.

Dated November 12, 2008.

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Dispute Resolution Officer