

DECISION

Dispute Codes CNC, FF

This is an application filed by the Tenant to cancel a notice to end tenancy for cause and recovery of the filing fee.

The Tenant did not attend. The Landlord attended the hearing in response to the Tenant's application for dispute. After waiting 10 minutes with the Landlord and with the Tenant not in attendance, the Tenant's Application for dispute is dismissed without leave to reapply.

At this time the Landlord made an oral request for an order of possession based upon the 1 month notice to end tenancy for cause dated April 8, 2012. The Landlord confirmed that in the Tenant's details of dispute that the notice was received on April 8, 2012 in person and that the notice showed an effective date of May 8, 2012.

Upon Review of Section 53 of the Residential Tenancy Act which states,

Incorrect effective dates automatically changed

53 (1) If a landlord or tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with subsection (2) or (3), as applicable.

(2) If the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section.

I find that since the Landlord issued the notice on April 8, 2012 and that 1 month's notice would begin on the date before rent is due, in this case April 30, 2012 for rent due on May 1, 2012 that the effective date is corrected to May 31, 2012.

The Landlord is granted an order of possession for the corrected effective date of May 31, 2012.

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: May 07, 2012.

Residential Tenancy Branch