

## **Decision**

**Dispute Codes:** CNL

### **Introduction & Analysis**

This hearing dealt with an application by the tenant for cancellation of the landlord's 2 month notice to end tenancy for landlord's use of property.

The matter was scheduled to be heard by way of conference call on July 23, 2010 at 11:30 a.m. The landlord / respondent was present at that time, however, as at 11:40 a.m. the tenant / applicant had still not appeared. Accordingly, the tenant's application is hereby dismissed without leave to reapply. At the hearing the landlord requested an order of possession.

The landlord issued a 2 month notice to end tenancy for landlord's use of property dated June 1, 2010. The date shown on the notice by when the tenant must vacate the unit is August 1, 2010. The landlord confirmed that rent is payable on the first day of each month.

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca/](http://www.rto.gov.bc.ca/)

Section 53 of the Act addresses **Incorrect effective dates automatically changed**, and provides as follows:

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.

(3) In the case of a notice to end a tenancy, other than a notice under section 45(3) [*tenant's notice: landlord breach of material term*], 46 [*landlord's notice: non-payment of rent*] or 50 [*tenant may end tenancy early*], if the effective date stated in the notice is any day other than the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, the effective date is deemed to be the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement

(a) that complies with the required notice period, or

(b) if the landlord gives a longer notice period, that complies with that longer notice period.

Pursuant to all of the above, I hereby order that the effective date of the landlord's notice be automatically changed from August 1, 2010, to August 31, 2010.

### **Conclusion**

The tenant's application is hereby dismissed without leave to reapply.

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Tuesday, August 31, 2010.** This order must be served on the tenant.

Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

DATE: July 23, 2010

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Dispute Resolution Officer