



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT Limited Partnership  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR OLC FF

### Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for unpaid rent, as well as for an order that the landlord comply with the Act, regulation or tenancy agreement. The tenant and an agent for the landlord participated in the teleconference hearing.

At the outset of the hearing, the landlord confirmed that they had received the tenant's application and evidence. The landlord also confirmed that they did not submit any documentary evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Should I order the landlord to comply with the Act, regulation or tenancy agreement?

### Background and Evidence

The tenancy began on September 1, 2008. The tenancy agreement indicates that monthly rent is \$725. The tenancy agreement does not indicate any parking fees, or that the tenant was using any parking space.

On March 21, 2014 the landlord sent all tenants in the building a notice that charges for parking would commence on May 1, 2014, at a rate of \$20 per space.

On July 2, 2014 the landlord served the tenant with a notice to end tenancy for unpaid rent, indicating that the tenant owed \$120 in unpaid rent.

The landlord's agent stated that he was unfamiliar with the details of the tenancy, as he had just stepped into the role of property manager two weeks ago. The agent stated that the landlord's records showed the tenant was occupying two parking spaces, and he therefore owed \$40 per month for parking. The \$120 amount indicated on the notice to end tenancy was for the two parking spaces, beginning May 2014. The agent stated that the landlord's position was that because the tenancy agreement was silent regarding whether the tenant had a parking stall or not, the landlord should be entitled to begin charging the tenant for parking.

The tenant stated that he only has one parking spot, and he has had one parking spot, free of charge, since the beginning of his tenancy. The tenant stated that the parking spot beside his spot used to be for motorcycle parking, but because that spot is now vacant, he has been parking over the line into the second spot to give more room for the vehicle on the other side of him. The tenant stated that he would stop parking over the line if the landlord wanted him to do so.

### Analysis

I find that the notice to end tenancy for unpaid rent is not valid. A notice to end tenancy for unpaid rent cannot include an amount for a fee other than rent, and in this case the amount was claimed for parking fees. Moreover, I find that the landlord cannot in this case impose on the tenant a parking fee for a parking space that was provided to the tenant, free of charge, from the outset of the tenancy.

I do not find it persuasive that the landlord may begin to charge for a parking space merely because the tenancy agreement is silent regarding whether a parking space is included in the rent. Most tenancy agreements do not explicitly identify all services or facilities, such as a toilet or overhead light fixtures, which are nonetheless included in rent. The landlord's agent could not speak to the original agreement or past practice between the landlord and the tenant regarding parking, and I accept the tenant's evidence that he has had one parking space included in his rent since the outset of the tenancy.

I order the landlord to comply with the tenancy agreement, specifically in regard to my finding that the tenant has one parking space included in his rent.

As the tenant's application was successful, he is entitled to recovery of the filing fee for the cost of his application.

Conclusion

The notice to end tenancy dated July 2, 2014 is cancelled, with the effect that the tenancy continues.

I order the landlord to comply with the tenancy agreement regarding one parking space included in the rent.

As the tenant is entitled to recovery of the \$50 filing fee, he may withhold that amount from his next month's rent.

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: September 2, 2014

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Residential Tenancy Branch

