



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Scandinave Spa  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      Tenant: CNL ERP RP FF  
Landlord: OPL FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on February 14, 2018.

The Landlords and the Tenant both attended the hearing. All parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed receipt of each other's documentary evidence and Notice of Hearing packages.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Residential Tenancy Act* (the "Act"), a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues in both applications deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss, with leave to

reapply, all of the grounds on the Tenant's application with the exception of the following ground:

- to cancel a 2-Month Notice to End Tenancy for Landlord's use of the property (the "Notice").

Further, since the issues that the Landlords have cross-applied for all relate to the Notice and the end of the tenancy, they will be considered in this hearing.

#### Issues(s) to be Decided

- Is the Tenant entitled to have the Landlords' Notice cancelled?
  - If not, are the Landlords entitled to an Order of Possession?
- Is the Tenant entitled to recover the filing fee for this application from the Landlords?

#### Background and Evidence

The Tenant acknowledged receiving the Notice on November 15, 2017. The Landlords issued the Notice for the following reason:

- The Landlord intends to convert the rental unit for use by a caretaker, manager, or superintendent of the residential property.

The Landlords stated that the Tenant has lived in the rental unit for several years now, and they are looking to end the tenancy so that they can offer the rental unit to an employee of the company. The Landlords stated that they operate a spa business, and the company owns several rental units which they use for staff accommodation. The Landlords stated that the Tenant is not an employee of the spa, and since there is a housing shortage in the area, they need to regain possession of this rental unit so it can be offered to people who work directly for the company.

The Landlords stated that they currently have a waitlist of spa employees who would like accommodation, and the person next in line is a "guest services" employee.

The Tenant stated that he is an employee within the community, although he acknowledged that he is not employed directly by the spa. The Tenant stated that the Landlords explanation does not make sense, and the reason in the Notice is not valid. The Tenant pointed out that the person the Landlords expect to move into the rental unit

is only a guest services employee of the spa, and is not a manager, caretaker, or superintendent of the residential property. The Tenant stated that this makes the Notice invalid.

#### Analysis

In the matter before me, the Landlords have the onus to prove that the reason in the Notice is valid. Based on the evidence and testimony before me, I make the following findings:

I note that the Tenant is not an employee of the spa, and that the Landlords would like to utilize the Tenant's rental unit to house another employee who works for them. I turn to the Landlords' evidence and they have indicated that the person they want to move into the rental unit is a "guest services" staff member. They did not elaborate further and explain what this employee's role entails. It appears the person the Landlords want to occupy the unit is a regular employee of the spa, and I find there is insufficient evidence that this person is a manager, superintendent, or caretaker of the residential property. As such, I find there is insufficient documentary evidence to support the reason listed on the Notice.

I find that the Landlords have not provided sufficient evidence to support the reason to end the tenancy; therefore, the Tenant's application is successful and the Notice received by the Tenant on November 15, 2017, is cancelled. I order the tenancy to continue until ended in accordance with the *Act*.

As the Tenant was successful with his application, I grant him the recovery of the filing fee against the Landlords. The Tenant may deduct the amount of \$100.00 from 1 (one) future rent payment.

#### Conclusion

The Tenant's application is successful. The Notice is cancelled.

The Tenant may deduct the amount of \$100.00 from 1 (one) future rent payment.

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: February 15, 2018

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Residential Tenancy Branch