

**Infinity Corp., Petitioner-Landlord-Appellant v. Evelyn Danko, as the
Executrix of the Estate of Bert Herbert, Respondent-Tenant, Aliston Philip,
Respondent-Respondent, -and- "John Doe" and/or "Jane Doe",
Respondents, 570642/13
570642/13**

**Appellate Term, First Department
NYLJ Publication Date: Mar 25, 2015**

Cite as: Infinity v. Danko, 570642/13, NYLJ 1202721318483, at *1 (App. Div.,
1st, Decided March 9, 2015)

570642/13

Before: Lowe, III, P.J., Schoenfeld, Shulman, JJ.

[Read Summary of Decision](#)

Decided: March 9, 2015

*1

Petitioner appeals from a final judgment of the Civil Court of the City of New York, New York County (Sabrina B. Kraus, J.), entered on or about January 9, 2013, after a nonjury trial, which dismissed the petition in a holdover summary proceeding.

Per Curiam.

Final judgment (Sabrina B. Kraus, J.), entered on or about January 9, 2013, affirmed, with \$25 costs.

The duly credited trial evidence supports Civil Court's determination that respondent is entitled to succeed to the *2 rent-stabilized tenancy of the deceased tenant as a nontraditional family member (see Rent Stabilization Code [9 NYCRR] § 2520.6 [o][2]). In this regard, the record shows that respondent and tenant enjoyed a family-type relationship dating back to 1996 and lived together in the subject apartment for more than two years prior to the tenant's death. The two engaged in social and recreational activities together, spent weekends together in Fire Island, and during the final months of his life, tenant was entirely dependent on respondent's care. The tenant financially supported the household while respondent performed household duties. They also shared a joint bank account and respondent was a beneficiary of a substantial portion of tenant's estate (see *Arnie Realty Corp. v. Torres*, 294 AD2d 193 [2002]).

Viewing the totality of the relationship between respondent and tenant, we find that the evidence adduced at trial established that the requisite emotional and financial

commitment and interdependence existed entitling respondent to succession (see WSC Riverside Drive Owners LLC v. Williams, __ AD3d __, 2015 NY Slip Op 01158 [1st Dept 2015]; RHM Estates v. Hampshire, 18 AD3d 326 [2005]). We note the *3 finding of the trial court that "[t]his was a relationship that went beyond that of roommates or a caregiver, [tenant] and respondent were each other's family and shared their lives for a period of approximately fifteen years." Contrary to petitioner claim, respondent's apparent involvement in the sex industry as a "male escort" was clearly not fatal to respondent's otherwise meritorious succession claim. As the trial court recognized, such illicit employment activity was not shown, on this record, to have any material relevance to "the nature of the relationship between respondent and [tenant]."

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

I concur I concur I concur

