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Pearlbud Realty Corp. v. Down

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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF MANHATTAN: HOUSING PART H X
PEARLBUD REALTY CORPORATION,

Petitioner-Landlord

Index # 68678/20

-against-

DECISION/ORDER

JOHN DOWN,
JOHN AND JANE DOE,
417 WEST 44th STREET, APT.9,
NEW YORK, NEW YORK 10036,

Respondent(s)-Tenant(s),

X

ELIZABETH TAO

J:

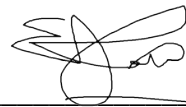
After a skype conference on 8/20/20 and with careful consideration of the papers submitted, the court finds as follows.

Respondent's motion seeking an order granting leave to file an amended answer, and if amended, leave to conduct discovery, is decided to the following extent. Respondent is granted leave to file an amended answer pursuant to CPLR 3025(b), with the following limitations. The court strikes the fourth counterclaim seeking attorneys' fees if they prevail. Such fees are not allowed in a summary proceeding under the current laws. (RPAPL 702) Further, as respondent has failed to set forth a "colorable claim of fraud," his second affirmative defense and first counterclaim are limited to a four year look back period. Matter of Regina Metro. Co., LLC v. New York State of Div. of Hous. & Community Renewal, 2020 NY Slip Op 02127 (2020). Respondent's request to conduct discovery is denied. Respondent has failed to demonstrate ample need for the information and documents sought. New York University v. Farkas, 121 Misc 2d 643, 468 N.Y.S. 2d 308 (Civ.Ct.NY Co. 1983). The court also declines to sign the attached subpoenas. Respondent may resubmit the subpoenas once they are tailored to conform with the decision rendered by the court.

As a result of the foregoing, the court will adjourn this matter for settlement purposes on October 27, 2020 at 10:30 a.m. A skype invite will be sent out shortly. In the event the matter is not settled on that date, it will be referred to Part X for trial. Respondent must file an amended answer, that is in conformance with this decision, on or before the next court date.

This constitutes the decision of the court.

Dated: October 9, 2020
New York, New York



ELIZABETH TAO – HOUSING COURT JUDGE

The matter was submitted on 9/30/20 without oral argument.

