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### 1616 President St. Realty LLC v. Barber

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CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF KINGS: HOUSING PART

-----X  
1616 PRESIDENT STREET REALTY LLC, Index No. 306296/2020

Petitioner,

DECISION/ORDER

-against-

VINCIA BARBER, ET AL., Mot. seq. nos. 1 & 2

Respondents.  
-----X

The following e-filed documents listed by NYSCEF document number 7-15, 18-54, 55-57, and 59 were read on motions sequence numbers 1 and 2.

Although in certain instances this court (the Housing Part of the New York City Civil Court) has the power to issue an injunction ordering a tenant to provide access to an owner for the purpose of the removal of violations of applicable housing standards (*see Osman v Kirschenbaum*, 24 Misc 3d 143[A], 2009 NY Slip Op 51762[U] [App Term, 1st Dept 2009]), the use of such power is limited to proceedings for the enforcement of housing standards (*Topaz Realty Corp. v Morales*, 9 Misc 3d 27, 28 [App Term, 2d Dept 2005]). As this is a summary eviction proceeding and no counterclaim for an order to correct has been asserted, it is not a proceeding for the enforcement of housing standards. Petitioner’s motion for an order of access must be denied.

As to Respondent’s motion, although Petitioner’s allegations of denial of access remain to be proven, the notice to cure and termination notice are reasonable under the attendant circumstances and sufficiently detailed so as to permit Respondent to prepare a defense (*see Oxford Towers Co., LLC v Leites*, 41 AD3d 144 [1st Dept 2007]; *Kew Gardens Portfolio Holdings, LLC v Bucheli*, 69 Misc 3d 129[A], 2020 NY Slip Op 51137[U] [App Term, 2d Dept, 2d, 11th, & 13th Jud Dists 2020]). Additionally, the notices cite multiple lease provisions that Petitioner alleges Respondent has violated; there is no requirement that the provisions be quoted.

In *78 W. 86th St. Corp v. Junas* (55 Misc 3d 596 [Civ Ct, NY County 2017]), this court dismissed a summary eviction proceeding based on allegations of illegal sublet, where the notice to cure required the tenant to cure the sublet by October 13, 2015 and the termination notice was dated October 15th, and only alleged that the tenant had “failed to comply with the notice to

cure.” In doing so, the court hypothesized that unlike, for example, allegations of dog ownership in violation of the lease, which situation could easily be confirmed by seeing the tenant walk the dog after expiration of the cure period, or hearing the dog bark behind closed doors, it would be more difficult to confirm in only two days that a sublet had been cured. Thus, the court reasoned, “requiring a landlord to actually allege the facts on which it is basing its conclusion that the tenant failed to cure its default would effectuate the regulation’s purpose of discouraging baseless eviction claims founded upon speculation and surmise” (*id.* at 600).

In contrast to *Junas*, the notice of termination here doesn’t merely allege that Respondent failed to comply with the notice to cure, but that she has “failed to provide access to the landlord or to even agree on access dates in the future.” Under the circumstances herein, which include Respondent’s concession that Petitioner accurately quoted from email from her counsel wherein it was asserted that “the tenants of A4 and A6 will not be granting access at this time [except for emergency repairs],” dismissal of the petition is not warranted (*cf. 1123 Realty LLC v Treanor*, 62 Misc 3d 326 [Civ Ct, Kings County 2018] [upholding as reasonable under the circumstances a termination notice alleging violation of no-pet clause and failure to provide access where the notice did not include specific incident after the notice to cure]).

The court has considered Respondent’s remaining arguments and find them unavailing. The court also notes that Respondent’s filing of a hardship declaration notwithstanding, she stated at argument on these motions that she was effectively waiving any opportunity to argue that this proceeding does not qualify for the “objectionable conduct” exemption for a stay under CEEFPA.


Accordingly, Petitioner’s motion is DENIED except as set forth below, Respondent’s motion is GRANTED as to Respondent’s request for leave to serve and file an answer and a demand for a bill of particulars, and otherwise DENIED, and it is

ORDERED that Respondent shall serve/file her proposed answer and demand for a bill of particulars to NYSCEF by March 26, 2021; and

ORDERED that the parties shall appear for a settlement conference on April 13, 2021, at 10:00 AM, via MS Teams.

This is the court’s decision and order.

Dated: March 24, 2021



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Michael L. Weisberg, JHC

**MICHAEL L. WEISBERG  
JUDGE, HOUSING COURT**