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11-15 New Montrose Ave Tenant Assn v. 11-15 New Montrose Ave HDFC

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[*1]

11-15 New Montrose Ave. Tenant Assn. v 11-15 New Montrose Ave. Hous. Dev. Fund Corp.
2021 NY Slip Op 50692(U) [72 Misc 3d 1210(A)]
Decided on July 26, 2021
Civil Court Of The City Of New York, Kings County
Stoller, J.
Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.
This opinion is uncorrected and will not be published in the printed Official Reports.

Decided on July 26, 2021

Civil Court of the City of New York, Kings County

<p>11-15 New Montrose Avenue Tenant Association, et al., Petitioner,</p> <p>against</p> <p>11-15 New Montrose Avenue Housing Development Fund Corporation, et al., Respondent.</p>

301035/2021

For Petitioner: Brooklyn Legal Services

For Respondent: Gerald Matthew Pigott

Jack Stoller, J.

This matter is a combined HP/harassment proceeding that was sent out to trial on harassment allegations. On June 21, 2021 the Court calendared this matter for trial this day, July 26, 2021 and later this week, on July 29, 2021. On this day, the first day of trial, Petitioners stated that they were

not ready for trial and that they instead wished to move for summary judgment.

On December 24, 1997, the Court promulgated DRP-150A [\[FN1\]](#) which established "resolution parts" and "trial parts" in Housing Court ("the old system"). According to the old system, when a resolution part determined that a case was trial-ready, the resolution part was to send it to a trial expediter, known as "Part X." A clerk in Part X would try to determine which of the trial parts was available to try a case. If a trial part was available the day that the resolution part transferred the matter to part X, the trial would be expected to commence that day. If the parties were not ready for trial, the Court would commonly dismiss the matter. If no trial part was available, the Part X clerk would adjourn the matter to a different day. On the adjourned date, the parties may or may not have gone out to trial that day, depending on the availability of the trial parts.

The old system assured the efficient use of the trial parts. A stable of trial-ready cases in the offing meant that trial parts would not be idle. The Housing Court is a high-volume Court, such that any measures that could address the administrative challenge of adjudicating a substantial number of cases helped. However, the old system burdened litigants and attorneys, who did not know if on a given date already scheduled for trial they would actually be able to go [\[*2\]](#) to trial, an uncertainty made more difficult when dealing with, say, non-party witnesses.

To address the concerns attorneys expressed about their ability to go to trial, Housing Court changed the way that it worked, as recommended by the Special Commission on the Future of New York City Housing Court Report to the Chief Judge, released in January of 2018. [\[FN2\]](#) The Housing Court retained resolution parts and trial parts but changed the procedures. Instead of the uncertainty of not knowing whether a case would be referred to a trial part for immediate trial, the trial expediter would immediately refer all cases transferred for trial to a trial part and, rather than calendar a trial right away, the Court would calendar a trial in consultation with the parties ("the new system").

From the perspective of the Court's ability to dispose of cases, the new system was less optimal. Matters scheduled for trial might settle, or a party or an attorney might come down with an illness. If a matter calendared for trial did not go to trial for that reason, the trial part would be idle. True, the Court could address this issue by double-booking trials, but this would mean that at least some litigants being told a matter was on for trial would not go to trial, thus bringing back the very uncertainty about whether a case would go to trial that led the Housing Court to abandon the old system to begin with. For attorneys and litigants, however, the advantage of the new system was certainty about a trial date, which facilitates their ability to prepare with exhibits and witnesses.

For a litigant who has the advantage of the new system of being certain about their trial date, then, to not be trial-ready on the date selected by the Court in consultation with the litigants, burdens the Court and impairs the ability of the Court to dispose of matters as it must. Every trial date that the Court calendars means that other cases cannot go to trial, pushing trial dates further back for everyone, a legitimate source of concern and complaint for Housing Court litigants. Under the new system, the Court cannot call the expediter and just try a different case if the trial before the Court does not go forward.

Litigants can mitigate these burdens if they alert the Court in advance of a problem with trial readiness which, in the era of increased email access to both judges and Court attorneys, is eminently feasible. The further in advance the Court knows that a trial will not proceed, the easier it is for the Court to fill that slot with another matter.

In this matter, however, despite participating in the scheduling of this trial, despite the Court setting aside two full days this week for this trial, and despite scheduling of a date certain for trial five weeks in advance, an unimaginable luxury to Housing Court litigants under the old system, Petitioners did not apprise the Court of their inability to be trial-ready until the very morning of trial.

This course of litigation is not what the Court, in consultation with Housing Court practitioners, contemplated in fashioning the new means by which cases get referred for trial. Accordingly, the Court denies Petitioners' application. As Petitioners are not ready for trial, the Court dismisses so much of this petition as concerns harassment allegations. The dismissal of this proceeding is without prejudice to Petitioners' remedies with regard to the aspect of this case that concerns the HP proceeding.

This constitutes the decision and order of the Court.

Dated: July 26, 2021
Brooklyn, New York
HON. JACK STOLLER
J.H.C.

Footnotes

[Footnote 1:](#) The directive can be found here:

<https://nycourts.gov/COURTS/nyc/SSI/directives/DRP/drp150A.pdf>

Footnote 2: The report can be found here:

http://ww2.nycourts.gov/sites/default/files/document/files/2018-06/housingreport2018_0.pdf

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