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700 Bklyn Realty LLC v. Simpson

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700 Bklyn Realty LLC v Simpson

2022 NY Slip Op 30939(U)

February 22, 2022

Civil Court of the City of New York, Kings County

Docket Number: L & T Index No. 88144/19

Judge: Juliet P. Howard

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This opinion is uncorrected and not selected for official publication.

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

-----X

700 BKLYN REALTY LLC,
Petitioner-Landlord,

L & T Index # 88144/19

Mot Seq #1

-against-

DECISION/ORDER

LISA SIMPSON,
Respondents-Tenant

“JOHN DOE” and “JANE DOE”
Respondents-Undertenants.

-----X

HON. JULIET P. HOWARD, J.H.C.:

Recitation, as required by CPLR 2219 (a), of the papers considered in the review of Petitioner’s Motion to Execute on the Warrant.

The papers considered in this motion are contained on NYSCEF commencing with entry document #1 and going through document #15.

Papers	Numbered
Notice of Motion and Affirmation/Affidavit Annexed	<u>1,2</u>
Opposition Papers.....	_____
Replying Affidavit	_____
Sur-Reply.....	_____
Exhibits	<u>3,4</u>

After oral argument and after a hearing on the record and upon the foregoing cited papers, the decision and order on Petitioner’s DRP-213 / 217 Motion to execute the warrant of eviction herein are as follows:

Pertinent Procedural History

In December 2019, Petitioner 700 Bklyn LLC (“Petitioner”) commenced underlying summary proceeding against Respondents Lisa Simpson, John Doe, and Jane Doe (collectively “Respondents”) to collect unpaid rent in the amount of \$2,626.68 for Apartment # 1L located at

700 Ocean Avenue, Brooklyn, New York 11226 (“subject dwelling”). According to the court file, no one answered the petition or appeared in the proceeding on behalf of Respondents. The court notes that postcards sent by the court to each of the named Respondents were returned with a sticker from the US Post Office indicating “return to sender; not deliverable as addressed; unable to forward”. Consequently, in February 2020, a default possessory judgment was entered and a warrant of eviction was issued against the Respondents.

Thereafter, because of the Covid-19 pandemic, the regular operation of the court system, with the exception of emergency repair cases, was interrupted and a series of New York State Executive Orders of the Governor (“Executive Orders”), Administrative Orders (“AO”) and Directives (“DRP”), and legislation were issued in response to the pandemic’s impact. On December 28, 2020, the New York Legislature enacted the Covid-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (“CEEFPA” or “the Act”), which stayed all proceedings, except for nuisance cases, for at least sixty days from the effective date of the Act. (See CEEFPA, Part A, Section 2). CEEFPA further provided that if a tenant suffered economic hardship as a result of the pandemic, they could file a Hardship Declaration, which would further stay the proceeding until at least May 1, 2021, which was later extended to August 31, 2021. The court notes that no Hardship Declaration was filed in the case herein. As such, there was no stay of the proceeding after February 27, 2021.

Petitioner then filed a motion seeking to enforce the default possessory judgment and warrant of eviction against Respondents. (NYSCEF # 3-8). According to the Affidavit of Service, the motion was served by mail to each of the Respondents at the subject dwelling. The motion was adjourned in HMP several times to allow Respondents to appear and to have an opportunity to retain a legal services provider. Prior to each adjourn date, the court sent postcards to the named

Respondents notifying of the August 30, 2021 and October 1, 2021 court dates. However, Respondents never appeared, and Petitioner's motion was then transferred to Resolution Part E.

While in Resolution Part E, the proceeding was further adjourned eventually to November 29, 2021 for conference. The court file reflects that on November 8, Petitioner mailed a letter to each of the named Respondents notifying them of the date, time and location of the proceeding. (NYSCEF # 14-15). The letter also provided the link for virtual access as well included required COVID notices and a Tenant's Declaration of Hardship During The Covid-19 Pandemic form.¹ Postcards notifying Respondents of the court date were mailed. However, Respondents did not appear on November 29. After AO 245/21 conference and hearing, the court reserved decision.

During the conference and hearing petitioner appeared by counsel Donna Levine of Horing, Welikson, Rosen & Digrugilliers, P.C. Petitioner's witness Karen Riano, an agent of petitioner was sworn in and testified that she handles accounts receivable for petitioner. She testified that \$22,852.11 was due in rent arrears through November 2021 and that the last rent payment received by respondent was in October 2019. She testified that no hardship declaration was filed by respondent, no ERAP was pending to her knowledge and that respondents were not at risk and were not in need of an Adult Protective Services referral to her knowledge.

Based on the court filings and after hearing, the court grants Petitioner's application to execute the previously issued warrant of eviction. Execution of the warrant is forthwith upon service of a marshal's notice and in compliance with any federal laws, executive orders, administrative orders or court directives.

¹ Petitioner's motion also complies with DRP 217, issued on August 16, 2021, which essentially has the same requirements set forth in DRP 213.

This constitutes the Decision and Order of this Court. Court Clerk to upload to NYSCEF
and mail to the parties.

Dated: Brooklyn, New York
February 22, 2022



HON. JULIET P. HOWARD, JHC