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2022-04-01

Israel v. Noel

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

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ARLENE ISRAEL,

Index No. 77870/19

Petitioner,

DECISION/ORDER

-against-

Mot. seq. no. 2

SHERLYNE NOEL, ET AL.

Respondents.

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The following e-filed documents, listed by NYSCEF document number 14 (motion no. 2) were read on this motion for leave to execute the warrant of eviction.

This is a holdover summary eviction proceeding premised on termination of an unregulated tenancy. After appearances in October and November 2019, the proceeding was adjourned to January 7, 2020, at which time it settled with an agreement in which Petitioner was awarded a judgment of possession and issuance of a warrant of eviction, with execution of the warrant stayed through March 31, 2020. The COVID-19 public health crisis ensued, followed by various executive and administrative orders, pursuant to which Petitioner moved in September 2020 for leave to execute the warrant. That motion was decided in November 2020 (NYSCEF Doc. 16), with an order permitting execution, but staying execution through December 31, 2020, on the condition that Respondent make payments for use and occupancy in November and December 2020.

It is not in the record whether those payments were made, but after enactment of the COVID-19 Emergency Eviction and Foreclosure Prevention Act Respondent filed a hardship declaration, which had the effect of further staying execution of the warrant through January 15, 2022. As a result, it is now two years since Respondent agreed to vacate the apartment, and one year and three months since any stay permitted by RPAPL 753. Petitioner has now moved once again for leave to execute the warrant of eviction.

Absent some particular rationale, such as a claim that Respondent is committing a nuisance, that Petitioner requires the apartment for some other purpose, or that Petitioner is attempting to sell the building vacant, one might expect that, were Respondent to pay monthly use and occupancy henceforth, Petitioner would agree to stay execution for some period. As it

happens, at argument Respondent requested a stay of execution through June 2022, to allow her children to finish up the school year in their home. However, Respondent also alleged no ability to pay use and occupancy for this period.

This court has no difficulty believing how traumatic an eviction would be for Respondent's children. According to studies cited by the American Academy of Pediatrics, the American Medical Association, and others:

“Eviction is particularly traumatizing to children and affects emotional and physical well-being and development for years, if not lifetimes. Evictions increase the likelihood of emotional trauma, lead poisoning, food insecurity, and academic decline for children. Eviction is also strongly associated with adverse childhood experiences, which have long-term negative health impacts, including increased risk of cardiovascular disease and pulmonary disease in adulthood and decreased life expectancy.”¹

How the “richest city in the world,” primary or secondary home to a world record nearly 25,000 individuals with a net worth of over \$30 million,² not to mention nearly 100 billionaires,³ can tolerate the infliction of such harm on *children*, this court cannot fathom.⁴

It is now over two years since the date Respondent initially agreed to vacate, and fifteen months since the date by which the court previously extended the stay of execution. Absent payment for continued use and occupancy of the premises, the court will not require Petitioner to continue to house Respondent and her family. On this point, it is worth noting that in recent years New York City has been paying close to \$1 million each day to house homeless families,⁵ and on occasions has paid as much as \$549.00 per night for hotels rooms for homeless families.⁶ Surely the city, or someone, can pay roughly \$50.00 per day for the next three months (assuming for the sake of argument a rent of approximately \$1,500.00 per month) so that Respondent and her family can ride out the school year before becoming, possibly, homeless.

¹ Brief for amicus curiae in *Brown v Azar*, 497 F Supp 3d 1270 [ND Ga 2020], available at <https://downloads.aap.org/DOFA/CDC%20Eviction%20Moratorium%20Amicus%20Brief.pdf>.

² Dan Avery, *New York is Officially the World's Wealthiest City for Real Estate*, Architectural Digest, Feb. 22, 2021, <https://www.architecturaldigest.com/story/new-york-wealthy-real-estate>.

³ John Hyatt, *Beijing Overtakes New York City as City With Most Billionaires*, Forbes, Apr. 6, 2021, <https://www.forbes.com/sites/johnhyatt/2021/04/06/worlds-richest-cities-the-top-10-cities-billionaires-call-home/?sh=384a52c43e3f>

⁴ 25,000 x \$100,000 = \$2.5 billion.

⁵ Brendan Cheney, *City Spending \$364M Per Year on Hotels for Homeless People*, Politico, Mar. 16, 2018, <https://www.politico.com/states/new-york/city-hall/story/2018/03/16/city-spending-364m-per-year-on-hotels-for-homeless-people-318770>

⁶ <https://comptroller.nyc.gov/newsroom/comptroller-stringer-analysis-cost-of-hotel-room-shelters-soars-by-33-percent-over-four-months/>

Accordingly, it is ORDERED that the motion is granted; and it is further ORDERED that the warrant may execute, but that execution is stayed through April 29, 2022; and it is further

ORDERED that the notice of eviction may be served forthwith, by mail; and it is further ORDERED that Respondent may move for an additional stay upon evidence of ability to pay use and occupancy for April 2022 and for any additional months for which Respondent is seeking a stay. "Evidence of ability to pay" shall be certified funds, HRA checks, or an HRA approval.

This is the court's decision and order.

Dated: April 1, 2022

Michael L. Weisberg, JHC