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2022-08-24

2324 LLC v. Hodge

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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: HOUSING PART D

-----X
2324 LLC,

Petitioner (Landlord),

Motion Seq. No.: 001
Index No. 302359/2022

-against-

DECISION/ORDER

RAFAEL HODGE,

Respondent (Tenant),

“JOHN DOE” and “JANE DOE,”

Respondents (Undertenants).
-----X

RECITATION, PURSUANT TO CPLR § 2219(a), OF THE PAPERS CONSIDERED IN REVIEW OF RESPONDENT’S MOTION TO STAY THE PROCEEDING.

PAPERS	NUMBERED
NOTICE OF MOTION & AFFIDAVITS ANNEXED	___ 1 ___
NOTICE OF X-MOTION & AFFIDAVITS ANNEXED	_____
ORDER TO SHOW CAUSE & AFFIDS. ANNEXED	_____
ANSWERING AFFIDAVITS TO MOT.	___ 2 ___
REPLYING AFFIDAVITS	___ 3 ___
EXHIBITS	_____
STIPULATIONS	_____

LYDIA C. LAI, Judge:

Respondent has lived in the subject two-bedroom apartment as an incident of his employment since 1994. Petitioner terminated respondent’s employment on January 10, 2022 and commenced this RPAPL §713(11) holdover proceeding to recover the subject premises. Shortly thereafter, respondent filed an unfair labor practice complaint with the New York State Department of Labor (NYS DOL) alleging unlawful retaliation (see Case ID# LS27 2022001010). Respondent filed an answer March 25, 2022 and now moves to stay this

proceeding pending determination of his NYSDOL complaint. Petitioner opposes. Both parties are represented by counsel.

This Court is empowered to stay its own proceedings pursuant to New York City Civil Court Act §212 and CPLR §2201. CPLR §2201 states that “[e]xcept as where otherwise prescribed by law, the court in which an action is pending may grant a stay of proceedings in a proper case, upon such terms as may be just.”

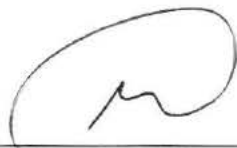
The discretionary remedy of a stay is available where it will serve to quiet or stabilize a disputed jural relationship, Green v. Glenbriar Co., 131 A.D.2d 363, 364 [1st Dept. 1987]), or if the Civil Court is without authority to grant the relief sought, Scheff v. 230 E. 73rd Owners Corp., 203 A.D.2d 151 [1st Dept. 1994]; 44-46 W. 65th Apt. Corp. v. Stvan, 3 A.D.3d 440 [1st Dept. 2004]), or where adjudication of the proceeding sought to be stayed is dependent upon a determination of the other pending proceeding, High Definition MRI, P.C. v. Mapfre Ins. Co. of N.Y., 148 A.D.3d 470 [1st Dept. 2017]; Hope’s Windows v. Albro Metal Products Corp., 93 A.D.2d 711 [1st Dept. 1983].

Moreover, summary proceedings have been stayed pending administrative agency determinations where a particular agency’s determination “will necessarily affect the ultimate disposition of the summary proceeding” see Galan Industries, Inc. v. Loizeaux, 134 Misc.2d 641 [Civ. Ct. N.Y. Co. 1986] citing Moskowitz v. Archer, NYLJ Feb. 14, 1986, at p.12, col 6 [A.T. 1]), including a party’s right to occupy the subject premises Galan at p. 642, or during the pendency of a NYSDOL action (see Maguire v. Ardea Realty Corp, 279 A.D. 904 [1st Dept. 1952]; Silver-Ruth Inc. v. Rafferty, 42 Misc.2d 926 [Nassau Dist. Ct. 1964]; 660 Riverside Drive Aldo Assocs., LLC v. Marte, 178 Misc.2d 784 [Civ. Ct. NY Co. 1998]; 5201 Synder Ave. Assocs. LP v. Clarke, 32 Misc.3d 1203(A) [Civ. Ct. NY Co. 2011].

Respondent's motion for a stay is granted. A decision by the Department of Labor could directly impact respondent's right to occupy the premises and affect the potential displacement/eviction of respondent and his family from the family home of 28 years and his longstanding employment as superintendent for 26 years. Further, the court does not have jurisdiction over unfair labor practices or to grant the relief sought in the NYSDOL proceeding, to wit, reinstatement of employment and lost wages. Clarke, 32 Misc.3d 1203(A). While petitioner alleges that a stay of this proceeding would bring great economic harm, petitioner does not proffer facts in support nor show that petitioner is unable to house the new superintendent in another unit during the pendency of the proceeding. For these reasons and based on a balancing of the equities presented, respondent's motion for a stay is granted pending a determination by the NYSDOL.

This is the order and decision of the court.

Dated: Bronx, New York
August 24, 2022



LYDIA C. LAI, J.H.C.