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Ahmed v. Mohammed

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[*1]

Ahmed v Mohammed
2022 NY Slip Op 51205(U) [77 Misc 3d 1213(A)]
Decided on December 12, 2022
Civil Court Of The City Of New York, Queens County
Sanchez, 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This opinion is uncorrected and will not be published in the printed Official Reports.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 December 12, 2022

Civil Court of the City of New York, Queens County

<p>Kamil Ahmed, Petitioner,</p> <p>against</p> <p>Saleh Mohammed, Nabila Mohammed, Morad Saleh, Respondents.</p>

L&T Index No. 050131-20/QU

For Petitioners: Daniels, Norelli, Cecere & Tavel, P.C.

For Respondents: Solomos & Storms

Enedina Pilar Sanchez, J.

This is a summary non-payment proceeding.

The parties have appeared by their respective counsel. There is no dispute that respondents surrendered the subject premises and petitioner has possession. Petitioner seeks a monetary judgment. This matter could not be settled, and it was transferred to the trial part.

After conference with the court, and now upon application by respondents' counsel to dismiss the case, the case is dismissed without prejudice.

Recently, the Appellate Term, Second Department ruled in *Felsenfeld v. Rogers*, 2022 NY Slip Op 51143(U)[November 3, 2022] that in a summary proceeding a money judgment "*cannot stand, as there was no concomitant award of possession to the landlord.*" In this summary proceeding before the court, a judgment of possession is not needed, as such, the monetary judgment cannot be entered.

The Appellate Term has addressed this "*no concomitant award of possession to the landlord,*" numerous times. See, *Javaherforoush v. Sherrard*, 2022 NY Slip Op 50307(U) [April 7, 2022], [Carney Realty Corp. v. Elite Tent & Party Rental, 73 Misc 3d 141\(A\)](#), 2021 NY Slip Op 51197(U)[December 9, 2021] and [Fieldbridge Assoc., LLC v Sanders, 70 Misc 3d 140\(A\)](#), 2021NY Slip Op 50128(U) [February 19, 2021].

Accordingly, the petition is dismissed without prejudice as to any claims or defenses between the parties.

This constitutes the Order of the Court.

Dated: December 12, 2022
Queens, New York
ENEDINA PILAR SANCHEZ
Judge, Housing Court

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