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2023-02-24

KEMET PROPERTIES LLC v. LOPEZ RUIZ

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"KEMET PROPERTIES LLC v. LOPEZ RUIZ" (2023). *All Decisions*. 791.
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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX: HOUSING PART D

-----X
KEMET PROPERTIES LLC

Petitioner,

Index No. 308208-22/BX

-against-

DECISION/ORDER

MIRIAM LOPEZ RUIZ

Respondent.

-----X
Recitation, pursuant to CPLR § 2219 of the papers considered in review of the motion:

PAPERS

NYSCEF

Notice of Motion and Affidavits Annexed with Exhibits

1 (#12-15)

Opposition and Notice of Cross Motion Affidavits Annexed with Exhibits

2 (#17-22)

Affirmation in Opposition with Exhibits

3 (#24-25)

LYDIA C. LAI, Judge:

This is a summary nonpayment proceeding commenced by service of a petition and notice of petition seeking possession of the premises located at 1104 Grant Avenue, Apartment 3A, Bronx, New York 10456 ("subject premises"). The petition alleges that respondent owes \$4,101.80 through April 2022. Both parties are represented by counsel.

Petitioner moves to vacate the ERAP stay on the grounds that respondent's ERAP application was denied. The following facts are undisputed. Respondent applied for ERAP (#0QABE) on or about April 2022. That application was denied. Respondent thereafter retained counsel and respondent and her counsel filed an appeal of the ERAP denial. The appeal was denied on September 14, 2022 on the grounds that respondent did not timely provide "the documentation within the deadline." Thereafter, on September 22, 2022,

respondent with the assistance of her counsel filed a new application for ERAP (#1YYEK).


This application is fully submitted and is under OTDA review.

Section 8 of the ERAP statute provides for a stay in any pending eviction proceeding where the tenant has applied for assistance pending a determination of eligibility (L. 2021, Ch. 56, Part BB, Subpart A, as amended by L. 2021, Ch. 417, Part A). Under the plain language of the ERAP statute, then, this matter is automatically stayed pending a determination by OTDA. There is nothing in the ERAP statute that limits the number of ERAP applications that may be filed. (See generally, L. 2021, Ch. 56, Part BB, Subpart A, as amended by L. 2021, Ch. 417, Part A). Moreover, courts have upheld ERAP stays where a previous ERAP application was denied on procedural grounds as is the case herein (see *Sunwood LLC v. Maria Furtado*, LT-56788-20/QU [Civ. Ct. Queens Cty 2022]; *Hassan v Ramkumar*, Decision/Order LT-64501-19/QU [Civ. Ct. Queens Cty 2022]).

Accordingly, petitioner's motion to vacate the ERAP stay is denied.

This is the decision and order of the Court.

Dated: Bronx, New York
February 24, 2023



LYDIA C. LAI, J.H.C.

LYDIA C. LAI
JUDGE, BRONX CIVIL COURT