

Fordham Law School

## FLASH: The Fordham Law Archive of Scholarship and History

---

[All Decisions](#)

[Housing Court Decisions Project](#)

---

2023-03-09

### Buddy Assoc. LLC v. Ahart

Follow this and additional works at: [https://ir.lawnet.fordham.edu/housing\\_court\\_all](https://ir.lawnet.fordham.edu/housing_court_all)

---

#### Recommended Citation

"Buddy Assoc. LLC v. Ahart" (2023). *All Decisions*. 792.  
[https://ir.lawnet.fordham.edu/housing\\_court\\_all/792](https://ir.lawnet.fordham.edu/housing_court_all/792)

This Housing Court Decision is brought to you for free and open access by the Housing Court Decisions Project at FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in All Decisions by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact [tmelnick@law.fordham.edu](mailto:tmelnick@law.fordham.edu).

[\*1]

<b>Buddy Assoc. LLC v Ahart</b>
2023 NY Slip Op 50173(U)
Decided on March 9, 2023
Civil Court Of The City Of New York, Bronx County
Ibrahim, J.
Published by <a href="#">New York State Law Reporting Bureau</a> pursuant to Judiciary Law § 431.
As corrected in part through March 10, 2023; it will not be published in the printed Official Reports.

Decided on March 9, 2023

Civil Court of the City of New York, Bronx County

<p><b>Buddy Associates LLC, Petitioner,</b></p> <p><b>against</b></p> <p><b>Dionne Ahart, Respondent-Tenant.</b></p>
--

L&T Index No. 55673-2019

For Petitioner:

Richard Philip Langer

111 Brook St Fl 2

Scarsdale, New York 10583-5143

For Respondent:

Mobilization for Justice, Inc.

Amanda Lipman of counsel

424 E. 147th Street, 3rd Floor

Bronx, New York 10455

Shorab Ibrahim, J.

RECITATION, AS REQUIRED BY CPLR 2219(A), OF THE PAPERS CONSIDERED IN THE REVIEW OF THIS MOTION BY THE PETITIONER SEEKING TO VACATE A

STAY: NYSCEF Documents No. 11 through 20.

UPON THE FOREGOING CITED PAPERS, THE DECISION/ORDER IN THIS MOTION IS AS FOLLOWS:

### DISCUSSION

When a tenant applies for the Emergency Rent Assistance Program (ERAP), an automatic statutory stay is triggered. ([see \*Harmony Mills West, LLC v Constantine\*, 75 Misc 3d 594](#), 595, 169 NYS3d 476 [City Ct, Cohoes 2022]; [653 LLC v Rosa-Blanco](#), [77 Misc 3d 1225\(A\)](#), \*1 [Civ Ct, Bronx County 2023]). Here, the respondent, a holder of a NYCHA Section 8 voucher, filed for ERAP shortly after a two-attorney stipulation of settlement was executed on June 8, 2021. That stipulation stayed execution of the warrant of eviction through August 31, 2021 for payment of \$5,627.63. (*see* NYSCEF Doc. 9).

Petitioner now moves to vacate the stay. The motion is supported with a one-page affidavit noting only that there is rent owed, the tenant is a recipient of Section 8 benefits, and that there is a pending ERAP application which "has had no activity for at least 6 months." (*see* NYSCEF Doc. 11 at p. 2). Petitioner's only supporting exhibits are a rent ledger and a copy of the June 2021 stipulation. (*id.* at p. 6-9).

In opposition, the respondent submits eight exhibits and a ten-page attorney affirmation replete with citation to statute, administrative orders and numerous cases where courts refused to vacate ERAP stays, even when the applicant resided in subsidized housing and the ERAP application was pending for many months. (*see* NYSCEF Docs. 12-20).

Respondent points out that OTDA has now reviewed non-subsidized tenant applications through November 30, 2022 (*see* NYSCEF Doc. 12 at par. 22 citing exhibit B at Doc. 14) and extrapolates that all non-subsidized tenant applications should be reviewed in the next few [\*2] months. (*id.* at par. 30). Thereafter, subsidized tenant applications, in theory, would be reviewed in order of receipt. Respondent further argues that when subsidized tenant applications, like respondent's, are reviewed, there may be funds available to pay them. (*see id.* at par. 33-39 citing exhibits E-H). Under this scenario, respondent argues that the ERAP stay is far from futile.

Petitioner chose not to submit a reply.

The question is not whether the court has authority to vacate ERAP stays. This court considers that question settled in the affirmative. (*see e.g. Laporte v Garcia*, 75 Misc 3d 557,

559 [Civ Ct, Bronx County 2022] ("determining whether a stay applies or should be lifted, based upon the particular circumstances of a proceeding, is in the court's realm"). In deciding whether to vacate an ERAP stay, it is necessary that the court be presented by the party seeking the stay "the particular circumstances," (*id.*), that might require lifting the stay.

Here, petitioner has failed this basic requirement and the motion must be denied. Petitioner's motion has no legal *or* factual support. There is no discussion of prejudice or futility or any legal or factual analysis that might support lifting a stay. In *Bay Park Two-A LLC v Pearson*, for instance, the petitioner argued that the tenant's application might never be paid, that even if it were paid, the arrears far exceeded the maximum ERAP award, and that the ERAP stay was prejudicial because the stay remained while arrears that would not be paid by ERAP piled up. (*see* 77 Misc 3d 534, 536 [Civ Ct, Kings County 2022]). Ultimately, the court vacated the stay because "based on the facts presented and history of the case." (*id* at 542).

Petitioner, in essence, asks the court to vacate the stay *solely* because the tenant's rent is subsidized and because the application is at least six months old. To grant relief on this thin basis would create a de facto rule where any ERAP stay could be lifted because of the passage of time alone. While respondent's counsel zealously represents the respondent and responds to arguments the petitioner *might* have made, it is not for this court to consider the potential prejudice petitioner has not raised or other arguments it does not mention.

The court surmises from petitioner's limited submission that petitioner has run out of patience. Impatience, as one court recently held, is no reason at all for lifting an ERAP stay. (*see Mangan Realty v Barzey*, Civ Ct, Bronx County, Dec. 16, 2022, Hahn, J., index. 56361/19).

Consequently, the motion to vacate the ERAP stay is denied. This constitutes the decision of the court. It will be posted to NYSCEF.

Dated: March 9, 2023  
SO ORDERED,  
Bronx, New York  
/S/

---

HON. SHORAB IBRAHIM  
Judge, Housing Part I

[Return to Decision List](#)