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124 East 176 street LLC v. Ombongo

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

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124 East 176 Street LLC

Index No. 020170/19
Motion Seq. No. 2

Petitioner,

-against-

DECISION/ORDER

██████ Ombongo

Respondent.

-----X
HON. STEVEN WEISSMAN:

Recitation, as required by CPLR 2219(a), of the papers considered in the review of this motion:

<u>Papers</u>	<u>Numbered</u>
Notice of motion and affidavits annexed	:
Order to Show Cause and affidavits annexed.	1
Answering affidavits.	2
Replying affidavits	:
Exhibits.	:
Stipulations.	:
Other _____	:

Petitioner was represented by: Becker & Poliakoff, LLP

Respondent was represented by: Bronx Legal Services

Before the Court is respondent’s second motion for permission to file an amended answer. Petitioner opposes the allowance of a second amended answer alleging prejudice and unnecessary delay. For the reasons set forth below, the Court grants respondent’s motion.

Respondent’s initial, pro se, answer was filed on April 18, 2019. On July 29, 2019, on respondent’s first motion to amend her answer, the parties stipulated to the first amended answer and adjourned the proceeding “for all purposes, including trial” to August 23, 2019. On that date the parties settled petitioner’s claims for unpaid rent and further adjourned the proceeding to October 11, 2019, “for hearing on respondent’s warranty of habitability & counter claims”. The

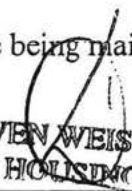
proceeding has been adjourned since October 11, 2019, to four subsequent dates, first for an abatement hearing and thereafter for new counsel for petitioner.

Subsequent to the partial settlement of August 23, 2019, HPD has entered 21 new violations against petitioner in respondent's apartment, including 6 class "C" violations (this does not include the 8 violations placed on respondent's apartment on August 20, 2019). And though true that these violations repeat over and over again in the inspection report (exh. C to respondent's papers), each subsequent repeated violation is a possible indication that petitioner has failed to do the needed work, an issue for trial. But, the report, if properly presented to the Court should be admissible and petitioner is deemed to have knowledge of these violations by the very existence of the inspection report, so there can be no claim of surprise or prejudice by petitioner.

As far as unnecessary delay, considering that the proceeding was adjourned for petitioner to have new counsel for a period of six weeks, this Court does not find any delay suffered as a consequence of its granting respondent's motion to be undue or unnecessary, or to cause petitioner any prejudice. Accordingly, respondent's motion is granted, the attached proposed amended answer is deemed served and filed and the proceeding is restored to the calendar of part D, room 550, at 9:30am on March 23, 2020. The parties can reschedule their hearing, if necessary, with Judge Lutwak at that time.

This is the decision and order of the Court. Copies are being mailed to both sides.

Dated: Bronx, New York
February 18, 2020


STEVEN WEISSMAN
JUDGE, HOUSING COURT

STEVEN WEISSMAN, JHC