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2023-07-11

432-434 Realty LLC v. Falkenheimer

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Civil Court of the City of New York
County of Kings
Part 1

Index Number 2012019
Motion Cal. # _____ Motion Seq. # (1)

DECISION/ORDER

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

432-434 Realty LLC
Claimant(s)/Plaintiff(s)/Petitioner(s)
against
Dawn Falkenheimer
"John Doe" "Jane Doe"
Defendant(s)/Respondent(s)

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	<u>1, 2</u>
Order to Show Cause and Affidavits Annexed....	_____
Answering Affidavits	_____
Replying Affidavits.....	_____
Exhibits	<u>3-5</u>
Other.....	_____

Upon the foregoing cited papers, the Decision/Order on this Motion to & vacate

the ERAP stay is denied is as follows:

Petitioner commenced this holdover case in October 2019.

Respondent filed a hardship declaration and on January 19, 2022 the case was placed on the ERAP calendar.

The within motion to vacate the ERAP stay ~~which~~ filed January 23, 2023 was calendared April 3, 2023 and then adjourned and submitted. Petitioner

^{insupportable} ~~states~~ of ~~the~~ motion, ~~states~~ that the unit has less than six units, ^{that} the petitioner wants to recover the subject premises for his family, and that ^{the} ~~he~~ ^{petitioner} made no claims for arrears in the petition.

While the petitioner states he wants to recover the subject premises for his family, there is no exception based upon such circumstances to a stay imposed by operation of

7/11/23
Date

Judge, Civil Court 1013

Civil Court of the City of New York

County of Kings
Part T

Index Number 78126/19
Motion Cal. # _____ Motion Seq. # (1)

DECISION/ORDER

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

432-434 Realty LLC
Claimant(s)/Plaintiff(s)/Petitioner(s)
against
Dawn Falkenheimer
"John Doe" "Jane Doe"
Defendant(s)/Respondent(s)

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed....	_____
Answering Affidavits	_____
Replying Affidavits.....	_____
Exhibits	_____
Other.....	_____

Upon the foregoing cited papers, the Decision/Order on this Motion to _____

is as follows:

law while an ERAP application is pending. Rather this statutory stay is subject only to the so-called nuisance exception (see L 2021, Ch 56 §1, part BB, §1, subpart A, sec 1, § 9-a, as amended by L 2021, Ch 417, § 2, part A, § 6), which is not applicable here. Ami v. Roneri, 2023 NY Slip Op 23182, [AppTerm 2nd dept 2023].

Accordingly, petitioner's motion is denied. "We acknowledge that alternative interpretations of the statute "may make sense from a practical point of view. But we had nothing in the opinions endorsing such results, nothing in the arguments of the landlord here, and nothing anywhere else to explain how they can be reconciled with the text of the statute. They

7/11/23
Date

Judge, Civil Court Zolt

Civil Court of the City of New York

County of Kings
Part T

Index Number 79126/19

Motion Cal. # _____ Motion Seq. # (1)

DECISION/ORDER

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

432-434 Realty LLC
Claimant(s)/Plaintiff(s)/Petitioner(s)
against
Down Falkenheimer
"John Doe" "Jane Doe"
Defendant(s)/Respondent(s)

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed.....	_____
Answering Affidavits	_____
Replying Affidavits.....	_____
Exhibits	_____
Other.....	_____

Upon the foregoing cited papers, the Decision/Order on this Motion to _____

is as follows:

Simply cannot... If that is an undesirable result, the problem is one to be addressed by the legislature." (Chuzon, LLC v Mangenest, 19 NY3d 410 [2012], Amiv. Riven supra) on the ERAP calendar

This case is stayed while respondent's application is pending.

This is the Decision/Order of the Court, it will be uploaded to NYSCEF

7/11/22
Date

[Signature]
Judge, Civil Court
Hon. Elizabeth Donoghue
Judge, Housing Court 3 of 3