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Martinez v. Ling

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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS: HOUSING PART C

GLORIA MARTINEZ,
Petitioner,

HP Index No. 731/20

against

**Order to Maintain
Essential Services and
Finding of Harassment
After Testimony**

LORI KAPO LING,
and
NEW YORK CITY DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT (DHPD),
Respondents,

HON. ENEDINA PILAR SANCHEZ,

Petitioner filed this HP case seeking correction of violations, a finding of harassment and a restraining order. The subject premises are located at 54-16 83rd Street, Apartment 2R, Elmhurst, NY 11373. Petitioner appeared in Court. Respondent owner has not appeared. This is the third time that respondent does not appear. Proof of service was presented. Service was proper. The Department of Housing Preservation and Development (DHPD) appeared via Microsoft Teams video conference pursuant to the Administrative Orders in place during the COVID-19 pandemic.

On January 6, 2021 petitioner was provided with a Spanish interpreter and sworn in. Petitioner testified as to conditions in the apartment. Petitioner also testified as to a series of actions by respondent that are designed to force petitioner to leave the apartment.

The Court took judicial notice of the DHPD inspection report found on the DHPD website, www.nyc.gov/hpd. The inspection report confirms that conditions in the apartment are in violation of the Housing Maintenance Code (HMC). The inspection report is hereby incorporated into this Order. Respondent is Ordered to correct the violations. Failure to comply with the Housing Maintenance Code may result in the imposition of civil fines and penalties.¹

Regarding the harassment claim, petitioner credibly testified that she has lived in the apartment for 5 years pursuant to a written lease. Petitioner introduced the lease into evidence. The lease shows that respondent is responsible for the utilities. In the fall of 2019, respondent, without authorization, transferred the utilities to petitioner. Con Ed was informed, and the account was placed back in respondent's name. Petitioner introduced into evidence notes left on her door.

¹ Petitioner had a prior HP case for repairs and harassment, HP Index No. 221/20. The Court issued a default Order and Judgment for the repairs and adjourned the case for a hearing on the harassment claim. Due to the COVID-19 pandemic, the hearing did not take place on April 20, 2020. The case was marked off calendar.

It appears that respondent is not paying for the utilities and this creates a hardship for petitioner. A potential shutdown of the electrical and gas services is unsettling. Petitioner's prior HP case, Index No. 221/20, had raised this issue, the hearing could not be held due to the pandemic.

Petitioner testified that she believes the respondent wants to demolish petitioner's apartment and convert the premises into one unit. Petitioner testified that respondent has threatened to remove petitioner's kitchen, bathroom and a wall that separates the two apartments. Petitioner testified that respondent placed cameras throughout the building, and one is facing into petitioner's apartment. Petitioner testified that respondent filed a holdover case while the lease was in full force and effect. The holdover case was dismissed.

The Court finds that respondent has engaged in a pattern of behavior designed to force petitioner to move out of the apartment. The repeated failure to make repairs, the attempted transfer of the utilities into petitioner's name, petitioner's testimony that respondent wants her to leave to have the apartment demolished, and the baseless holdover support a finding of harassment. *NYC Admin. Code §27-2005(d) and §27-2004(a)(48)*.

As such, the Court is required to impose a civil penalty under the harassment law. The penalty of \$2,000.00 is imposed against the respondent Lori Kapo Ling.

It is **Ordered** that respondent-owner harassed petitioner in violation of *NYC Admin Code §27-2005* and that a "C" violation exist; and it is further

Ordered that the civil penalty of \$2,000.00 is assessed against the respondent Lori Kapo Ling and payable to the New York City Department of Housing Preservation and Development; and it is further

Ordered that respondent is enjoined and restrained from engaging in any acts that constitute harassment as prohibited by the harassment law; and it is further

Ordered that respondent maintain all essential services, including electricity and gas, and not remove any walls, kitchen, fixtures or bathroom. Failure to do so may constitute contempt of Court and subject the respondent to additional fines and penalties.

This constitutes the Order of the Court.

Dated: January 12, 2021
Queens, New York

So ordered,

ENEDINA PILAR SANCHEZ
Judge, Housing Court