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940-950 GATES LLC v. BANKS

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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS: HOUSING PART F
940-950 GATES LLC,

Petitioner,

Index No. L&T 88831/19

DECISION/ORDER

-against-
JOBIE BANKS, MELISSA SANABRIA,
“JOHN DOE” and “JANE DOE”,
Respondents.

Hon. Kevin C. McClanahan

Recitation, as required by CPLR 2219(A), of the papers considered in the review of this motion to proceed to inquest.

PAPERS

NUMBERED

NOTICE OF MOTION AND AFFIDAVITS & AFFIRMATION ANNEXED
ANSWER AFFIRMATION & AFFIDAVIT
REPLYING AFFIDAVITS & AFFIRMATION
EXHIBITS

1
2

Upon the foregoing cited papers, the Decision/Order on this motion is as follows:

During the pendency of this holdover proceeding, petitioner voluntarily participated in the LRAP program by requesting and receiving funds totaling \$39,150.77. The statutory condition for receipt of these funds is clear: petitioner “may not evict the household on behalf of whom the LRAP payment is made for reason of expired lease or holdover tenancy for one year from the receipt of the LRAP payment.” See *L. 2021 C. 56, Part BB Subpart A Section 5(d)(iv)*. The statute does not provide for the payment of use and occupancy during this period.

Petitioner moves this Court to impose the payment of use and occupancy as a condition of the stay. Notably, counsel does not cite to any statute that would support the argument, be it RPAPL 753 or CPLR 2201. Rightly so, since the statute that imposed the stay does not expressly

provide for the remedy sought and this Court cannot engraft same via judicial fiat.

Based on, the Court hereby denies the motion.

Dated: February 24, 2023
Brooklyn, NY


Kevin C. McClanahan, J.H.C.