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[*1]

Mohammad v Kaur
2023 NY Slip Op 50224(U) [78 Misc 3d 1214(A)]
Decided on March 14, 2023
Civil Court Of The City Of New York, Queens County
Guthrie, J.
Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.
This opinion is uncorrected and will not be published in the printed Official Reports.

Decided on March 14, 2023

Civil Court of the City of New York, Queens County

Zahir Mohammad, JUAN CARLOS MENDEZ, Petitioners,

against

**Balwinder Kaur, CHARLIE DOE, SADIA DOE, Respondents,
and NEW YORK CITY DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT (DHPD), Respondent.**

Index No. L&T 404/22

Zahir Mohammad, petitioner pro se

Juan Carlos Mendez, petitioner pro se

Clinton J. Guthrie, J.

PROCEDURAL BACKGROUND & INQUEST

Petitioners filed this HP action by order to show cause seeking a finding of harassment and related relief. The premises are located at 91-54 117th Street, 2nd Floor, Queens, New York 11418. This court held an inquest after the non-DHPD respondents failed to appear on three consecutive court dates. The inquest began on September 28, 2022, and continued over four (4) days. The inquest concluded on December 21, 2022 and the court reserved decision

upon its conclusion.

At the inquest, petitioners Zahir Mohammad and Juan Carlos Mendez testified. The court admitted exhibits, including several videos. Mr. Mohammad testified that he moved into the premises in February 2021 and vacated at the end of June 2022 (after the commencement of this action). He stated that he had a month-to-month rental agreement with respondent Balwinder Kaur. In the second month that he was living there, however, Ms. Kaur's son, who he only knew as Charlie at the time (named herein as Charlie Doe), asked for his rent.

Mr. Mohammad also testified about the conditions in the premises. He stated that there was an infestation of mice and roaches within a month of his moving in. He described shutoffs of electricity occurring approximately 12 times. He stated that Charlie, whose name he came to know as Sarbjit Singh after the case was commenced, told him that he turned off the electricity because Mr. Mendez was not paying his rent. He also described hot water shutoffs, which occurred 6 to 7 times.

Mr. Mohammad said that he feared Mr. Singh, who he knew to have a gun. He further testified that Mr. Singh hired workers to remove the entire kitchen in the subject premises on June 7, 2022. He stated that he had no use of the kitchen after this occurred.

Mr. Mohammad stated that Mr. Singh lives on the first floor of the subject building. He stated that Sadia Doe is Mr. Singh's girlfriend and that she would text him to say that he (Mr. Mohammad) was a good tenant and asked that he get Mr. Mendez to move out.

Mr. Mendez was the second witness. He stated that he had moved into the subject premises in August 2021. He found the apartment on Craigslist and Mr. Singh initially showed him it. He testified that Mr. Singh signed a lease with him but represented that Ms. Kaur was the landlord. He paid rent to Ms. Kaur for two (2) months but could not pay rent thereafter because his daughter was born. He testified that after he moved in, Mr. Singh regularly threatened to kill him and other tenants. Mr. Mendez further testified that Mr. Singh also frequently called him a derogatory term for a gay man.

Mr. Mendez also confirmed the conditions that Mr. Mohammad had testified about, including the mice and roach infestations. He further described "faulty" electrical service, including an outage lasting a week, and the removal of the kitchen that Mr. Mohammad had testified about. He confirmed that the hot water was also out from August 2, 2021 through August 7, 2021.

Mr. Mendez next testified about applying for ERAP (Emergency Rental Assistance Program). He stated that Mr. Singh became incensed about this and called him a derogatory term again. Mr. Singh would also tell people on the street that Mr. Mendez was not paying his rent.

The videos introduced by Mr. Mendez (and admitted by the court) depicted Mr. Singh screaming and swearing at tenants, police, and a DHPD inspector at and near the subject building. One video specifically showed Mr. Singh calling Mr. Mendez a derogatory term. An audio recording included threats of violence by Mr. Singh against Mr. Mendez.

On the final day of the inquest, December 21, 2022, Mr. Mendez testified that he had been removed from the subject premises pursuant to a vacate order. He also stated that Sadia Doe broke into his room after he was vacated and took photographs of his belongings and confidential information. He submitted video into evidence to document this. After additional videos, photographs, and text messages were admitted, petitioners rested on the inquest.

DISCUSSION & CONCLUSION

The inquest testimony and evidence established that respondents Balwinder Kaur and Charlie Doe engaged in harassment against petitioners in violation of NYC Admin. Code § 27-2005(d). The court further finds that Charlie Doe shall be amended to Sarbjit Singh, nunc pro tunc, as petitioners credibly testified that they learned Mr. Singh's name after the commencement of this action. *See* CPLR § 1024. As no respondent (other than DHPD) appeared and no prejudice was demonstrated, the sua sponte amendment to conform the pleadings to the proof is [*2]warranted. *See* CPLR § 3025(c); [Dinizio & Cook, Inc. v. Duck Cr. Mar. at Three Mile Harbor, Ltd.](#), 32 AD3d 989, 990 [2d Dept 2006]. The court dismisses the proceeding against Sadia Doe. While Mr. Mendez's testimony and evidence confirmed certain harassing actions by Sadia Doe, petitioners failed to demonstrate that she is an "owner" of the subject premises, as defined by the Housing Maintenance Code. [See Leung v. Zi Chang Realty Corp.](#), 74 Misc 3d 126[A], 2022 NY Slip Op 50034[U] [App Term, 1st Dept 2021].

The testimony and evidence established acts and omissions by Balwinder Kaur and Sarbjit Singh that constituted "making express or implied threats that force will be used against any person lawfully entitled to occupancy of such dwelling unit" (NYC Admin. Code § 27-2004(a)(48)(ii)(a)), "repeated interruptions [and] discontinuances of essential services" (NYC Admin. Code § 27-2004(a)(48)(ii)(b)), "repeated failures to correct hazardous [and]

immediately hazardous violations of [the Housing Maintenance Code] within the time required for such corrections" (NYC Admin. Code § 27-2004(a)(48)(ii)(b-2)), and "threatening any person lawfully entitled to occupancy of such dwelling unit based on such person's perceived sexual orientation" (NYC Admin. Code § 27-2004(a)(48)(ii)(f-5)). The testimony and video evidence clearly established that Mr. Singh regularly threatened petitioners with violence. The testimony and the court's judicial notice of the DHPD website (*see Dept. of Hous. Preserv. & Dev. v. Knoll*, 120 Misc 2d 813, 814 [App Term, 2d Dept 1983]), which contains multiple open and uncorrected hazardous and immediately hazardous violations for the subject premises during the time that petitioners were in possession, also established repeated interruptions of essential services, including electricity, and the failure by respondents to timely correct violations for electric wiring, a mice infestation, a roach infestation, and a missing carbon monoxide detector. Finally, Mr. Mendez's testimony and the video evidence showed Mr. Singh making derogatory remarks about Mr. Mendez's perceived sexual orientation.

Although the DHPD website for the subject premises indicates that the building is a private dwelling (1 "A" unit), the credible testimony and the Department of Buildings (DOB) partial vacate order stating that 2 "additional" single room occupancy units were illegally created on the first and second floors, established that the subject building is a multiple dwelling (*see* NYC Admin. Code § 27-2004(a)(7)). [\[EN1\]](#) Therefore, there is a rebuttable presumption that the aforementioned acts of harassment were intended to cause petitioners to vacate or otherwise surrender or waive their rights. *See* NYC Admin. Code § 27-2004(a)(48) (ii). Since respondents did not appear at the inquest, the presumption of intent was not rebutted.

Having determined that Balwinder Kaur and Sarbjit Singh engaged in harassment against petitioners under the Housing Maintenance Code, the court hereby ORDERS the following relief pursuant to NYC Admin. Code §§ 27-2115(m) and § 27-2115(o):

(A) The court finds that a class "C" violation existed as a result of the harassment and that such violation existed at the time that this action was commenced (June 24, 2022);

(B) The court restrains Balwinder Kaur and Sarbjit Singh from violating NYC Admin. Code §§ 27-2005(d) and 27-2004(a)(48), and they are directed to ensure that no further violation occurs;

(C) The court imposes a civil penalty against Balwinder Kaur and Sarbjit Singh in the

amount of \$8,000.00, which shall be subject to a judgment in favor of DHPD; and

(D) The court awards statutory compensatory damages in the amount of \$1,000.00 to *each* petitioner, which shall be subject to separate judgments in favor of Zahir Mohammad and Juan Carlos Mendez and against Balwinder Kaur and Sarbjit Singh. Petitioners did not prove compensatory damages in excess of the statutory amount. *See E.J. Brooks Co. v. Cambridge Sec. Seals*, 31 NY3d 441, 449-450 [2018]; *Roach v. 215 Sterling LLC*, 74 Misc 3d 1221[A], 2022 NY Slip Op 50193[U] [Civ Ct, Kings County 2022, Stoller, J.]. The court declines to impose punitive damages.

This Decision/Order will be emailed to petitioners and to the attorneys for DHPD. The court will also mail copies of the Decision/Order to Balwinder Kaur, Sarbjit Singh, and Sadia Doe at the address in the petition.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Dated: March 14, 2023
Queens, New York

CLINTON J. GUTHRIE, J.H.C.

Footnotes

Footnote 1: The court takes judicial notice of the partial vacate order on the DOB website (BIN #4196582) [last accessed March 14, 2023]. *See Cashew Holdings, LLC v. Thorpe-Poyser*, 66 Misc 3d 127[A], 2019 NY Slip Op 52032[U] [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2019].

[Return to Decision List](#)