

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

All Decisions

Housing Court Decisions Project

2023-11-28

1614 MIDWOOD HOLDINGS LLC v. TILIAEVA

Follow this and additional works at: https://ir.lawnet.fordham.edu/housing_court_all

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS, HOUSING PART S

-----X

1614 Midwood Holdings LLC

Index No. LT-328061-22

Petitioner-Landlord

DECISION/ORDER

-against-

Motion Seq #2

Malika Tiliaeva,

Respondent-Tenant(s)

-----X

Present: Hon. Tashanna B. Golden

Recitation as required by CPLR 2219(a), of the papers considered in the review of the Respondent's Motion to Amend and for Summary Judgment:

Papers:	NYSCEF Numbers
Respondent's Motion, Affidavit and Affirmation in Support, and Exhibits.....	25-27
Petitioner's Affirmation in Opposition and Exhibits.....	29-33
Court File.....	Passim

Respondent filed the instant motion to reargue pursuant to CPLR 2221(d) and for summary judgment pursuant to CPLR 3212.


Respondent's Motion to reargue is granted.

In the Court's decision/order dated August 14, 2023 the Court found "that where, as here, a Respondent applies for ERAP after the expiration of their lease and is awarded ERAP payments, a nonpayment may be brought pursuant to RPAPL § 711(2) during the 12-month period after ERAP acceptance," and therefore, denied Respondent's motion for Summary Judgment. However, the filing of this nonpayment occurred prior to the acceptance of the ERAP payment, and therefore during a period when there was neither a lease or an agreement in affect that would permit the filing of a nonpayment pursuant to RPAPL§ 711(2). Thus, Summary Judgment should have been granted.

Wherefore, the Court grants Respondent's motion for Summary Judgment. The matter is dismissed.

The foregoing is the Decision/Order of this court.

Dated: Brooklyn, New York
November 28, 2023


Hon. Tashanna B. Golden
Judge, Housing Court

SO ORDERED
HON. TASHANNA B. GOLDEN
JUDGE, HOUSING COURT

Balsamo, Rosenblatt & Hall, PC
By: Edward Hall
200 Schermerhorn Street
Brooklyn, NY 11201
Attorneys for Petitioner

Brooklyn Legal Services
By: Elizabeth Reardon
1709 Saint Marks Ave, 2nd Fl
Brooklyn, NY 11233
Attorneys for Respondent