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439 West 125th Street Associates, LP v. Noble

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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: HOUSING PART A

----- X
439 WEST 125TH STREET ASSOCIATES, LP,

Petitioner-Landlord,

Index No. LT- 314490-22/NY

- against -

DECISION/ORDER

KEITH NOBLE, et al.,

Respondent-Tenant,

----- X

Present: Hon. Norma Jennings
Judge, Housing Court

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

Papers	Numbered
Petitioner’s Notice of Motion, along with Affidavits, Affirmations and exhibits	34
Respondent’s Cross-Motion, Affidavit in Opposition and exhibits	35-40

Facts and Procedural History

Petitioner commenced this nonpayment proceeding in September 2022 seeking rental arrears totaling \$16,277.24 for the period of January 2020 through August 2022 at a monthly rental of \$856.58. Petitioner moves to restore the proceeding to the court’s calendar, amend the petition to include all arrears due as of the date of the motion, for a final judgment in the amount of \$32,392.13, based upon respondent’s failure to pay the amount due pursuant to the November 20, 2023, stipulation of settlement, and legal fees. Respondent cross-moves, pursuant to New York Civil Court Act section 110(d), for an order joining the New York City Department of Social Services (DSS) for an update and determination of respondent’s CityFHEPS application which has been pending for four months.

DISCUSSION:

Petitioner commenced this nonpayment proceeding in September 2022, respondent filed a *pro se* answer and failed to appear on his initial court date. by petition. Respondent subsequently retained the Legal Aid Society who filed an Order to Show Cause to vacate the default judgment. See NYSCEF Documents #12–23. The Order to Show Cause was adjourned for Petitioner to produce a copy of the amended lease. See NYSCEF Document #24, and then adjourned for Respondent to submit a CityFHEPS application. See NYSCEF Document #25. Respondent’s counsel noted that APS and Homebase stated that they were waiting for the landlord to provide document and the W-9 form to complete and submit the CityFHEPS application. The proceeding was adjourned three additional times for petitioner to produce the documents and complete the repairs in respondent’s apartment. Petitioner produced the required documents on October 20, 2023, and respondent’s CityFHEPS application was filed. On November 20, 2023, the parties entered in to a two-attorney stipulation of settlement, where respondent agreed to pay \$29,653.46 by January 4, 2024, petitioner agreed to inspect and repair conditions in respondent’s apartment, and upon default, either side could restore for appropriate relief. See NYSCEF Document #33.

Petitioner now moves to restore the proceeding to the court’s calendar and for a final judgment based upon respondent’s failure to pay the stipulation amount, respondent cross-moves to join the Department of Social Services. Respondent has not opposed the portion of petitioner’s motion to restore the case to the calendar, or to amend the petition to date, therefore, the proceeding is restored to the calendar and the petition is amended to include all rent through June 3, 2024.

Respondent opposes petitioner’s motion for a final judgment and issuance of the warrant of eviction arguing that this portion of petitioner’s must be denied because petitioner’s delay in providing the required documents to complete his CityFHEPS application is directly related to

respondent's failure to comply with the stipulation of settlement and the arrears accumulating to \$29,653.46. Further, respondent argues the current amount due requires several levels of approval from the Human Resource Administration ("HRA"), resulting in a longer time to process the application.

In support of his cross-motion to implead the New York City Department of Social Services ("DSS"), respondent argues, that New York City Civil Court Act § 110 (d), grants the court authority to join the New York City Department of Social Services. NYC Civil Ct Act § 110 (d) provides that in any action or proceeding in which the payment or nonpayment of rent by a recipient of or applicant for public assistance is at issue: [O]n the application of any party, any city department or the court, on its own motion, may join any other person or city department as a party in order to effectuate proper housing maintenance standards and to promote the public interest. In addition to any other application of its powers under this subdivision, the court may, on the application of any party or on its own motion, join as a party the Department of Social Services of the City of New York in any action or proceeding in which the payment or non-payment of rent by a recipient of or applicant for public assistance pursuant to the social services law is at issue, and the court may join as a party the division of Adult Protective Services of the City of New York in any such action or proceeding, where appropriate.

Here, respondent's CityFHEPS application is being processed by DSS and if approved will pay the outstanding arrears as well as the ongoing monthly rent. There have been delays in submitting the application as respondent was waiting for petitioner to submit documentation. However, the application has now been filed for over four months, without explanation, the application has not been processed, therefore, respondent's cross-motion to join the New York City Department of Social Services (DSS), to update the court or complete processing respondent's

CityFHEPS application, is granted and DSS is joined as a respondent so it can apprise the court of the status of respondent's CityFHEPS if it is not processed and approved before the adjourn date.

Accordingly, petitioner's motion to restore the case to the calendar and amend the petition to date is granted to include all arrears due through June 30, 2024. Petitioner's motion for a final judgment and warrant of eviction is denied without prejudice to renew. Respondent's cross-motion to join the Department of Social Services as a respondent to this proceeding is granted. Respondent to serve a copy of this order on petitioner and DSS with Notice of Entry by June 10, 2024, and upload proof to NYSECF.

The parties are to appear in Part A, Room 526 on July 15, 2024, 9:30am to update the court on respondent's CityFHEPS application. The court to email a copy of this order to both sides and upload to NYSCEF. This constitutes the decision and order of the Court.

Dated: Brooklyn, New York
June 3, 2024



HON. NORMA JENNINGS
J.H.C.
Hon. Norma Jean Jennings

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