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Queens Garden Apartments, LLC. v. Mann

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Civil Court of the City of New York
County of Queens

Index # **LT-321019-23/QU**



QUEENS GARDEN APARTMENTS, LLC
Petitioner(s)
-against-
STEPHANIE MANN
Respondent(s)

Decision / Order

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

Papers	Numbered
Order to show Cause/ Notice of Motion and Affidavits /Affirmations annexed	/
Answering Affidavits/ Affirmations	3
Reply Affidavits/ Affirmations	_____
Memoranda of Law	_____
Other Exhibits	2

Upon the foregoing cited papers, the Decision/ Order on the (motion / order to show cause) is (granted /denied) for the following reason(s):

Respondent's motion seeks leave to submit an Amended Answer and dismiss this proceeding.

The respondent seeks dismissal of the proceeding alleging a defective Rent Demand. Specifically they argue the Demand is defective because it includes additional monies designated as "additional rent" which are not rent. The Rent Demand seeks arrears allegedly due form March 2022 through November 2023 at the tenant's monthly rent amount. In addition, the petitioner lists, "\$550 in late fees, \$248.64 in AC fees, and \$192.96 in washer fees as additional rent." The respondent argues that these additional fees are not rent and thus makes the notice improper in accordance with RPAPL 711.

The petitioner opposes the motion and argues that the Demand is a good faith approximation of the rent which can be easily determined by deducting the additional rent from the total rent arrears.

RPAPL 711 requires a proper rent demand to fairly afford the tenant,at least, actual notice of the alleged amount due and of the period for which such claim is made. "At a minimum, the landlord, should clearly inform the tenant of the approximate good faith sum of rent due. Loran LP v. Cruz, 2020 NYLJ Lexis 867. Courts have found that where the demand included excessive fees, the "demand itself did not fairly apprise the respondent fo the amounts actually due and prejudiced the respondent's ability to respond to the demand, formulate defenses, and avoid litigation." 561-11 94th St. Co. LLC v. Jara, 2019 NYSlipOp 51121(U); Meisels Family, Inc. v. Crittleton, 78 Misc3d 1236(A), 187 NYS3d 577. While a rent demand must fairly apprise the tenant of the periods and amounts for which rent is alleged due, minor inaccuracies in the amounts sough therein should be disregarded. 10 Midwood LLC v. Hyacinth, 2003 WL 21004996; London Terrace Gardens v. Stevens, 159 Misc2d 542. 310 12th St. Assoc. LLC v. Disla, 78 Misc3d 1211(A), 183 NYS3d 843. However, in the case at bar, the inaccuracies cannot be categorized as 'minor' in that they are designated as "additional rent". This is misleading especially to an unrepresented party which is exactly what RPAPL 711 is trying to avoid.

For these reasons, the respondent's motion is granted. The Amended Answer is deemed filed and the Petition is dismissed without prejudice.

Date: 9/27/24

Civ-GP-85



So Ordered
Honorable David A. Bryan

David Bryan
Judge of the Civil Court