

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D35645
Y/hu

_____AD3d_____

Submitted - June 8, 2012

RUTH C. BALKIN, J.P.
L. PRISCILLA HALL
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2011-04997

DECISION, ORDER & JUDGMENT

In the Matter of Violane Mehu, respondent, v New
York City Housing Authority, etc., appellant.

(Index No. 11056/10)

Sonya M. Kaloyanides, New York, N.Y. (Nancy M. Harnett and Laura R. Bellrose
of counsel), for appellant.

In a proceeding pursuant to CPLR article 78 to review a determination of the New York City Housing Authority dated December 30, 2009, which adopted the recommendation of a hearing officer dated December 7, 2009, made after a hearing, denying the petitioner's grievance challenging the denial of her request to succeed to the tenancy of her late mother's apartment as a remaining family member, the New York City Housing Authority appeals from a judgment of the Supreme Court, Kings County (Baynes, J.), dated November 22, 2010, which granted the petition and annulled the determination.

ORDERED that the appeal is dismissed, without costs or disbursements, and the judgment is vacated; and it is further,

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed on the merits, without costs or disbursements.

“Since the petition raises the question of whether the challenged determination is supported by substantial evidence, the Supreme Court should have transferred the proceeding to this Court (*see* CPLR 7804[g]). Nevertheless, because the record is now before this Court, we will treat the matter as one initially transferred here and will review the administrative determination *de novo*” (*Matter of Blake v New York City Hous. Auth.*, 78 AD3d 1175, 1175).

July 18, 2012

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MATTER OF MEHU v NEW YORK CITY HOUSING AUTHORITY

There is substantial evidence in the record to support the determination of the New York City Housing Authority (hereinafter the NYCHA) that the petitioner did not, after having obtained written approval to become a permanent member of her mother's household, continuously reside in her mother's apartment for a period of at least one year immediately prior to her mother's death (*id.* at 1175-1176). "Accordingly, the petitioner could not succeed to the tenancy of [her] late mother's apartment as a remaining family member, and the NYCHA correctly denied [her] grievance" (*id.* at 1176).

BALKIN, J.P., HALL, LOTT and COHEN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court