

Crest I LP v Ventura

2021 NY Slip Op 34038(U)

March 1, 2021

Civil Court of the City of New York, New York County

Docket Number: Index No. 73374/19

Judge: Jean T. Schneider

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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

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Index No. 73374/19

CREST I LP,

Petitioner,

-against-

DECISION/ORDER

ROSA VENTURA,

Respondent.

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SCHNEIDER, J.

This is a nonpayment proceeding, commenced in December 2019. Petitioner seeks rent at \$1078.74 per month for a period extending back to 2018, during which respondent is alleged to have made substantial, but not complete, payments. The apartment is rent stabilized, and respondent has a DRIE, which limits her payments due to a disability. Respondent has answered by counsel and raised a defense and counterclaim of rent overcharge.

Respondent has moved for discovery on her overcharge claim. Petitioner opposes the motion and has cross-moved to dismiss the overcharge defense and counterclaim. The issue is the proper application of the Court of Appeals determination in *Regina Metropolitan Co. v. DHCR*, 2020 NY Slip Op. 02127.

In June 2019, the State Legislature passed the Housing Stability and Tenant Protection Act of 2019 ("HSTPA"), substantially altering the legal landscape for rent overcharge claims in rent stabilized apartments. Prior to HSTPA, courts were barred, when evaluating an overcharge claim, from considering the rental history of an apartment more than four years before an overcharge claim was made, and landlords were not required to keep records supporting rent increases for more than four years. Hence, even if a landlord took a clearly illegal rent increase, a tenant was barred from recovering an overcharge if the tenant failed to make her claim within four years of when the illegal increase was

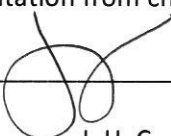
taken. The only two exceptions to this rule, neither relevant here, were disputes about the rent regulatory status of the apartment, and cases in which the tenant was able to establish fraud.

Under HSTPA, the court is permitted to examine the entire rental history of an apartment to determine the legal rent, and a tenant may recover for overcharges occurring up to six years before the claim is made. However, in *Regina Metropolitan*, above, the Court of Appeals held that the new HSTPA rules could not be applied to claims in which the four year look back period had already expired when the HSTPA became law. In other words, the Court held that HSTPA could not be applied to revive a claim that was already barred when HSTPA became law. Respondent's claim in this case is such a claim.

Respondent's claim here is based upon a very large and unexplained increase in the rent for her apartment, taken by petitioner's predecessor between the departure of the tenant who preceded respondent in the apartment and the start of respondent's first lease in 2010. Petitioner acknowledges that it has no documentation that would justify this increase. The parties agree that the apartment is rent stabilized, and respondent has not asserted a claim of fraud. Rather, respondent argues that she can examine the rental history going back ten years before her claim because she seeks to recover for the resulting overcharge only for periods that follow the adoption of HSTPA. Respondent's argument ignores the clear language of *Regina* with respect to the four year look-back rule in effect prior to HSTPA, and has previously been rejected specifically and persuasively in *699 Venture Corp. v. Zuniga*, 2020 NY Slip Op. 20241 (Civ. Ct. Bronx Co.).

Accordingly, respondent's motion for discovery is denied, and petitioner's motion to dismiss respondent's claims based upon rent overcharge are granted. The case will be restored to the court's virtual calendar for all purposes. Counsel will receive a Teams invitation from chambers shortly.

Dated: 3/1/21



J. H. C.