

<b>Williams v Garbutt</b>
2022 NY Slip Op 32886(U)
August 16, 2022
Supreme Court, Kings County
Docket Number: Index No. 518336/2021
Judge: Karen B. Rothenberg
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AT PART 35 OF THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF KINGS, AT THE COURTHOUSE LOCATED AT 360 ADAMS STREET, BROOKLYN, NY, 11201, ON THE 16th DAY OF August, 2022.

Hon. Karen B. Rothenberg

J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MARLINE WILLIAMS and GARY WILLIAMS,

Plaintiff,

-against-

ERIC GARBUTT a/k/a KEVIN GARBUTT, and JOHN DOE and JANE DOE, said names being fictious, parties intended being possible occupants of the premises, and other persons who claim or may claim an interest in or lien against the premises,

Defendants.

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**ORDER AND JUDGMENT**

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WHEREAS, this action has come on to be heard on Plaintiffs, MARLINE WILLIAMS and GARY WILLIAMS' Motion by their attorney, Derek Warner, Esq., for an order: (1) Pursuant to CPLR 6301 and 6311 granting Plaintiffs access to the premises known as and located at 4205 Clarendon Road, 2<sup>nd</sup> Floor, Brooklyn, NY 11203 and identified in the land records for the City of New York as Block 4942, Lot 33, in the County of Kings (hereinafter the "premises"); (2) Pursuant to CPLR 3215 granting Plaintiffs a default judgment against Defendant, ERIC GARBUTT a/k/a KEVIN GARBUTT, ejecting the aforesaid Defendant from and awarding Plaintiff possession of the premises, and also granting a default judgment on Plaintiffs' trespass, nuisance and use and occupancy claims against the aforesaid Defendant; (3) Discontinuing the action as against

Defendants sued herein as JOHN DOE and JANE DOE and striking from the caption the names of Defendants, JOHN DOE and JANE DOE; and (4) For an award of attorney fees in the amount of \$5,000.00 plus the costs and disbursements for the making of the within Motion, together with such other and further relief as this Court deems just and proper, before Part 35 of the Supreme Court of the State of New York, Kings County, at the courthouse located at 360 Adams Street, Brooklyn, NY, 11201, on the 26th day of May, 2022

WHEREAS, Plaintiffs, MARLINE WILLIAMS and GARY WILLIAMS, appeared by Derek Warner, Esq., and Defendants, ERIC GARBUTT a/k/a KEVIN GARBUTT, and JOHN DOE and JANE DOE, having failed to appear;

WHEREAS, the Court rendered a decision on August 16, 2022, in favor of the Plaintiffs, MARLINE WILLIAMS and GARY WILLIAMS against Defendant, ERIC GARBUTT a/k/a KEVIN GARBUTT, on Defendant's default in failing to appear;

NOW, on motion of Derek Warner, Esq., attorney for Plaintiffs, MARLINE WILLIAMS and GARY WILLIAMS,

The Motion be, and the same hereby is, granted to the following extent:

It is

ORDERED that Defendant, ERIC GARBUTT a/k/a KEVIN GARBUTT, shall allow Plaintiff access to the premises to make all necessary repairs, on a weekday, between the hours of 9:00 A.M. and 5:00 P.M., after 48 hours written notice, unless the parties agree to another mutually convenient time. Access shall continue, day by day only on business days (non-holiday Monday through Friday); and it is further

ORDERED, that a judgment of ejection is granted, execution of the judgment is stayed for 30 days from the date of service of this order with notice of entry on the defendant, and is is further

ORDERED, that the Marshall, after the expiration of the stay, be and he hereby is ordered upon receipt of a certified copy of this order to enter upon the premises hereinafter described, commonly

known as 4205 Clarendon Road, 2<sup>nd</sup> Floor, Brooklyn, NY 11203 and identified in the land records for the City of New York as Block 4942, Lot 33, in the County of Kings, and eject therefrom Defendant, ERIC GARBUTT a/k/a KEVIN GARBUTT, and every person holding the same, or any part thereof, and adversely to Plaintiffs, MARLINE WILLIAMS and GARY WILLIAMS, and to put Plaintiffs, MARLINE WILLIAMS and GARY WILLIAMS, into legal possession of the premises occupied by said Defendant, and any person or persons holding under them, and that this order be executed by the Marshall as though it were an execution for the delivery of possession of the premises.

The premises are described in Schedule "A" annexed hereto.

ORDERED that Plaintiffs, MARLINE WILLIAMS and GARY WILLIAMS, are also granted a default judgment against Defendant, ERIC GARBUTT a/k/a KEVIN GARBUTT, on Plaintiff's claims for trespass, nuisance and use and occupancy in an amount to be determined at inquest, together with the costs and disbursements of the action as taxed by the Clerk of the Court, with nine percent interest from the date of judgment; and it is further

ORDERED, that this action be and the same hereby is discontinued as against Defendants sued herein as JOHN DOE and JANE DOE, and that the said Defendants be stricken out and eliminated from the title and caption of this action accordingly, and it is further

ORDERED that the caption of this action hereinafter appear as follows

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X

MARLINE WILLIAMS and GARY WILLIAMS,

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Plaintiff,

-against-

ERIC GARBUTT a/k/a KEVIN GARBUTT,

,

Defendant.

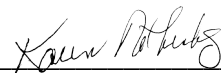
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ORDERED that Plaintiffs are directed to serve a copy of this order with notice of its entry upon the defendant and the Clerk of this Court. within 5 days

This constitutes the judgment and order of the court.

Dated: Brooklyn, New York  
August 16, 2022

ENTER:



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Hon. Karen B. Rothenberg, J.S.C.