

1267 Rogers Ave. LLC v Morgan

2024 NY Slip Op 34640(U)

September 17, 2024

Civil Court of the City of New York, Kings County

Docket Number: Index No. LT-326793-22/KI

Judge: Agata E. Rumprecht-Behrens

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Civil Court of the City of New York
County of Kings

Index # **LT-326793-22/KI**



1267 Rogers Avenue LLC

Petitioner(s)

-against-

Tamisha Morgan

Respondent(s)

Decision / Order

Mot. Seq. 4

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

	Papers	Numbered
Notice of Motion and Affidavits /Affirmations annexed		NYSCEF # 34-36
Answering Affidavits/ Affirmations		NSYCEF # 37-39
Reply Affidavits/ Affirmations		NYSCEF # 41

This is a summary nonpayment proceeding. The subject premises are known as 267 Rogers Avenue AKA 211 Crown Street, Apt 225, Brooklyn, NY 11225.

Petitioner moves to reargue this court’s January 5, 2024 Decision/Order (Mot. Seq. 3) which granted summary judgment in favor of respondent, dismissed the case, and allowed respondent to go forward on her counterclaims.

A motion to reargue may be granted when a party demonstrates that “the court overlooked or misapprehended the facts or the law or for some reason mistakenly arrived at its earlier decision.” *CPLR 2221(d); Vaccariello v. Meineke Car Care Ctr., Inc.*, 26 N.Y.S.3d 139, 142 (App. Div. 2d Dep’t. 2016).

Petitioner argues that the court erred in issuing the January 5, 2024 Decision/Order because the court misapprehended the facts of the case. However, it is petitioner that misapprehends the court’s decision (and respondent’s argument). Respondent did not argue that the matter must be dismissed because the “subject apartment was never properly registered, and no rental amount was ever legally registered from which the apartment could have been regulated.” Instead, respondent argued that petitioner has failed to comply with the requirements of the *Rent Stabilization Code* by not registering the most recent rent as established by the renewal lease. Petitioner did not address this argument in the prior motion, nor is this argument addressed here.

Petitioner also argues that once a late registration is filed, it “shall result in the prospective elimination of such sanctions...” This statement is correct, however, that is not why the case was dismissed. The case was dismissed because petitioner failed to comply with the requirements of the *Rent Stabilization Code* by not registering the most recent rent as established by the renewal lease. This prevents petitioner from collecting any rent until the failure to register the premises is remedied. Petitioner does not provide any explanation as to why the last lease rent is not registered with DHCR and there was no indication that petitioner has moved to remedy this situation.

In the reply papers, petitioner urges the court to reject *Erik Jantes[sic] LLC v Bruna*, 70 Misc 3d 1223(A) [Civ Ct, Bronx County 2021] as the case is from a court of concurrent jurisdiction. In

the next paragraph, petitioner urges the court to accept another case from a court of concurrent jurisdiction *Fieldbridge Assoc. LLC v. Mecca Rivers*, 82, Misc.3d 1241(a) (N.Y.Civ.Ct. 2024). The reply does not cite to any appellate authority. Further, these cases were not discussed in the motion itself.

Reargument is not designed to afford the unsuccessful party successive opportunities to reargue issues previously decided...or to present arguments different from those originally asserted.” *Setters v. AI Properties and Developments*, 139 AD3d 492 [1st Dept 2016]

Accordingly, the motion to reargue is denied. The matter will appear on the Part G/Room 509 calendar on October 28, 2024 at 9:30AM for assignment to the trial expediter for trial on respondent’s counterclaims.

Respondent is directed to serve a copy of this Decision/Order with a Notice of Entry on petitioner via NYSCEF on or before September 27, 2024.

This constitutes the Decision/Order of the Court.

Date: September 17, 2024
Brooklyn, NY



Hon. Agata E. Rumprecht-Behrens
Housing Court Judge

CIVIL COURT OF THE
CITY OF NEW YORK
SEPTEMBER 18, 2024
ENTERED
KINGS COUNTY