

**1334 B LLC v Pritchard**

2024 NY Slip Op 34690(U)

July 24, 2024

Civil Court of the City of New York, Kings County

Docket Number: LT-333720-23/KI

Judge: Karen May Bacdayan

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This opinion is uncorrected and not selected for official publication.

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF KINGS: HOUSING PART G

1334 B LLC

LT-333720-23/KI

-against-

Petitioner,

**AMENDED ORDER**<sup>1</sup>

NORA PRITCHARD

**ENTERED**

“JOHN DOE” and “JANE DOE”

Respondents,

**JUL 24 2024**

Undertenants.

HON KAREN MAY BACDAYAN, JHC

**CIVIL COURT  
KINGS COUNTY**

This proceeding is a summary holdover proceeding filed on November 14, 2023 against Nora Pritchard on the basis that she is either a licensee or a squatter in what is pleaded as a rent stabilized premises. (NYSCEF Doc No. 1, petition at 3, notice to quit dated October 31, 2023; RPAPL 713 [7].) Petitioner, 1334 B LLC, was transferred ownership of the building by deed recorded with the City Register on June 28, 2023. The notice to quit, signed by “Roy Rave, Managing Member” states, “The premises are subject to Rent Control, Rent Stabilization Law of 1969 as amended or to the emergency (sic) Tenant Protection Act of 1974 however the occupants are not tenants as they never paid rent or entered into a tenancy with the owner.” Petitioner demands \$2,500 per month in use and occupancy. (*Id.* ¶ 9.) The petition is verified by Nissan Shapiro, Esq. Petitioner served respondent with a notice to quit in November 2023. The petition was noticed to be heard on May 28, 2024 as a “new part” case to enable respondent to seek counsel through the Universal Access to Counsel initiative. Respondent did not obtain counsel. On July 15, 2024, the second appearance of the proceeding on the court’s calendar, petitioner drafted a stipulation in which respondent, *pro se*, agreed to a final judgment of possession, warrant to issue forthwith, with execution of the warrant stayed two months until September 15, 2024. Respondent signed the stipulation prior to allocution pursuant to RPAPL 746. (Appendix 1 hereto.)

While allocuting the stipulation, respondent apprised the court of the following alleged facts: Respondent stated that she has lived in the premises for over 20 years. Respondent lives with her severely autistic adult son who was present in court. Respondent stated that her last rent stabilized lease was not renewed by the prior owner and she believes her rent was \$1,600 per month. Respondent

<sup>1</sup> This order is amended to require --at the hearing to be held on August 15, 2024 at 2:15--the the presence of Benjamin Epstein, Esq. and Jonathan Schreier, Esq., as well as Nissan Shapiro, Esq., of the law firm of Epstein, Schreier, and Shapiro, LLP. The order is issued to give the firm a full opportunity to demonstrate that they should not be sanctioned. For ease of reading, added text is underlined.

alleged that her Section 8 Housing Choice Voucher Program subsidy was terminated due to Housing Quality Standards violations. Respondent believes that she is the last rent stabilized tenant in the building. Respondent alleged that all other tenants pay market rent, and that petitioner offered her a “buyout.” Respondent stated that she could not accept the buyout offer because she felt it would be too difficult to find an affordable apartment, especially with a severely disabled adult son who is prone to constant outbursts and will not leave her side.

The court subsequently discovered the following facts: The building is an 8-unit building. Respondent’s apartment was registered with the Department of Housing and Community Renewal (“DHCR”) as recently as July 2023, and respondent is the named tenant of record. (Appendix 2 hereto.) The court takes judicial notice pursuant to Multiple Dwelling Law § 328 (3) that respondent’s apartment has approximately 40 open Housing Maintenance Code violations placed by HPD between 2021 and July 2023. Most recently, on July 6, 2023, 20 violations were placed by HPD, 19 of which are “C” (immediately hazardous). (See HPD website, available at <https://hpdonline.nyc.gov/hpdonline/building/253176/violations>, last accessed July 16, 2024.)

The day the petition was noticed to be heard, July 15, 2024, and after the fully executed stipulation was allocuted and then conferenced with counsel on the record, Mr. Shapiro stated that he had not heard any of the respondent’s allegations before, that petitioner had tried to obtain information about the apartment prior to commencing this proceeding, that petitioner could not determine who resided in the premises, and that based on the foregoing, petitioner asked Mr. Shapiro to commence this combined licensee/squatter holdover proceeding. The proceeding was adjourned to August 15, 2024 at 9:30 in the morning.

The next day, July 16, 2024, Mr. Shapiro requested to approach the bench, and at 10:07 a.m. on the record he advised the court that he had “looked into it” and “the [premises] was sub rehabbed in 2016” despite being pleaded and registered as rent stabilized. Shapiro further stated, “I have the DHCR documents,” referring to the DHCR substantial rehabilitation order. Regardless, this does not explain why the proceeding was brought as a licensee/squatter proceeding.

As such, the petition and averments of petitioner’s counsel and information provided to him by his client, and to the court, are rife with potential material inaccuracies which could have been discovered prior to serving the notice to quit. This proceeding could result in the eviction of a

purportedly long-term, rent stabilized, single mother of a severely disabled child whose valuable Section 8 subsidy was purportedly suspended due to immediately hazardous conditions extant in the apartment.<sup>2</sup>

As recently stated in *Noor v Asad*, 77 Misc 3d 1203 (A), 2022 NY Slip OP 51112 (U). \*4 (Civ Ct, Kings County 2022):

“It is the professional ethical duty of counsel to ensure that legal papers and documents filed in court have been vetted for veracity of facts proffered and comply with current state of laws. Thus, whether attorney exercised the standards of a reasonable attorney forms the basis of the court's inquiry in determination of frivolous conduct that authorizes the court's imposition of costs and sanctions, (*DeRosa v. Chase Manhattan Mortg. Corp.*, 15 AD3d 249, 793 NYS2d 1, 2005 NY App Div LEXIS 1982, 2005 WL 434458). Pursuant to 22 NYCRR 130-1.1 (d), “an award of costs or the imposition of sanctions may be made only after a reasonable opportunity to be heard” (*Matter of Fernandez v. Nigro*, 178 AD3d 703, 705, 2019 NY App Div LEXIS 8736, 2019 NY Slip Op 08672, 113 NYS.3d 753, 2019 WL 6519689 [2019]).”

The court considers the averments in the court papers filed with this court to raise serious concerns about professional conduct and diligence which may be sanctionable pursuant to 22 NYCRR 130-1.1. As a judge is obligated to uphold the integrity of their courtroom, the court will hold a hearing on the court's *sua sponte* motion regarding whether petitioner's and Epstein, Schreier, and Shapiro, LLP's actions are sanctionable in order to provide Mr. Epstein, Mr. Shapiro, and Mr. Schreier and any other individual employed by Epstein, Schreier, and Shapiro, LLP's, and petitioner's managing agent, Roy Rave, an opportunity to be fairly heard.

22 NYCRR 130-1.1 states in relevant part:

“(b) The court, as appropriate, may make such award of costs or impose such financial sanctions against either an attorney or a party to the litigation or against both. Where the award or sanction is against an attorney, it may be against the attorney personally or upon a partnership, firm, corporation, government agency, prosecutor's office, legal aid society or public defender's office with which the attorney is associated and that has appeared as attorney of record. The award or sanctions may be imposed upon any attorney appearing in the action or upon a partnership, firm or corporation with which the attorney is associated.

(c) For purposes of this Part, conduct is frivolous if:

(1) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law;

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<sup>2</sup> Mr. Shapiro offered to withdraw the petition; however, the court indicated that the proceeding would be adjourned for hearing on the court's *sua sponte* sanctions motion. As issue has been joined, the proceeding may be discontinued by a fully executed stipulation or by order of the court. CPLR 3217.

- (2) it is undertaken primarily to delay or prolong the resolution of the litigation, *or to harass or maliciously injure another* (emphasis added); or
- (3) it asserts *material factual statements that are false* (emphasis added).

. . . In determining whether the conduct undertaken was frivolous, the court shall consider, among other issues *the circumstances under which the conduct took place, including the time available for investigating the legal or factual basis of the conduct,* and whether or not the conduct was continued when its lack of legal or factual basis was apparent, *should have been apparent,* or was brought to the attention of counsel or the party (emphasis added).”

To facilitate the hearing, Mr. Shapiro has already agreed on the record to **subpoena Section 8 for leases and records pertaining to the suspension of respondent’s Section 8 subsidy**. This shall be done forthwith such that the documents arrive prior to or on the hearing date. **Petitioner, its managing agent Roy Rave, Mr. Epstein, Mr. Shapiro, and Mr. Schreier shall also provide to the court prior to the hearing by filing on NYSCEF, no later than AUGUST 9, 2024, the following documents pursuant to CPLR 409 (a):<sup>3</sup>**

1. **A certified copy of the DHCR rent roll;**
2. **A certified copy of the rent registration history for Apartment 3E;**
3. **Copies of the annual rent registrations filed with DHCR;**
4. **A certified copy of the DHCR order of deregulation due to substantial rehabilitation and any other documents in petitioner’s possession regarding the deregulation or regulation of the premises;**
5. **All leases in petitioner’s possession for Apartment 3E from 2021 forward.**
6. **Any available information and/or documentation regarding prior actions between petitioner, its predecessors, and Nora Pritchard.**

The hearing will be held on August 15, 2024 at 2:15 p.m. in the afternoon. **Any notice of appearance of counsel for Epstein, Schreier, and Shapiro, LLP’s as a firm or for any individual principal of the firm must be filed no later than August 9, 2024.**

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<sup>3</sup> CPLR: 409 (a) states in relevant part, “Upon the hearing, each party shall furnish to the court all papers served by him. The petitioner shall furnish all other papers not already in the possession of the court necessary to the consideration of the questions involved.”

The clerk will also send notices to respondent.

This constitutes the amended decision and order of this court.

DATED: July 24, 2024  
Brooklyn, New York

*So Ordered:*  
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Hon. Karen May Bacdayan, JHC