

Chet Corp. v Margolis

2025 NY Slip Op 33689(U)

September 16, 2025

Supreme Court, Kings County

Docket Number: Index No. 533851-2024

Judge: Peter P. Sweeney

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS, PART 73

Index No.: 533851-2024
Motion Date: 9-15-25
Mot. Seq. No.: 1, 2

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CHET CORP.,

Plaintiff,

-against-

DECISION/ORDER

PHILIP MARGOLIS, JACOB MARGOLIS, CONNOR
GLEASON, and ALEXANDER PETROS,

Defendant(s).

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The following papers, which are e-filed with NYCEF as items 7-25, were read on this motion and cross-motion:

In this action, *inter alia*, to recover unpaid rent, in Motion Sequence No. 1, defendants Philip Margolis, Jacob Margolis, Connor Gleason, and Alexander Petros moved for an order dismissing the action in its entirety pursuant to CPLR 3211(a)(1) based on documentary evidence and pursuant to CPLR 3211(a)(7) for failure to state a cause of action. In Motion Sequence No. 2, Plaintiff Chet Corp. moved for an order granting leave to amend the Verified Complaint dated and filed December 12, 2024, pursuant to CPLR §3025(b).

The motions were argued on September 15, 2025. At that time, the court issued a short-form order denying that branch of defendants' motion to dismiss pursuant to CPLR 3211(a)(1) and (a)(7). The court concluded that the documentary evidence did not demonstrate as a matter of law that the rent checks the plaintiff submitted were sufficient to show that the plaintiff's claim for rental arrears was without merit.

With respect to the plaintiff's motion to amend the complaint, the court denied the motion, concluding that the amended complaint was not patently devoid of merit and insufficient as a matter of law. The court, however, reserved on whether the claims against the guarantor as alleged in the amended complaint and the claims for attorneys' fees under the written lease agreement should proceed. The Court will now address these issues.

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In the amended complaint, the plaintiff seeks to recover from four defendants: three tenants (Jacob Margolis, Connor Gleason, and Alexander Petros) and a guarantor (Philip Margolis). The tenants' initial lease for the Brooklyn property ran from August 15, 2019, to August 14, 2020. After this period, the tenants remained on the property on a month-to-month basis until they vacated on May 28, 2024. The plaintiff is seeking \$47,500 in unpaid rent and fees from July 2023 to May 2024, a period entirely within the month-to-month holdover tenancy. The lease and guarantor agreement contain a provision making the unsuccessful party responsible for the successful party's attorneys' fees. The defendants argue that since the original lease agreement was no longer in effect during the period for which the plaintiff seeks recovery, the guarantor is not liable. For the same reasons, the defendants claim that the plaintiffs' claim for attorney fees under the written lease agreement is without merit. The Court agrees.

"A guaranty is a contract, and in interpreting it we look first to the words the parties used" (*Louis Dreyfus Energy Corp. v. MG Ref. & Mktg., Inc.*, 2 N.Y.3d 495, 500, 780 N.Y.S.2d 110, 812 N.E.2d 936; see *G3-Purves St., LLC v. Thomson Purves, LLC*, 101 A.D.3d 37, 40, 953 N.Y.S.2d 109). "A guaranty must be construed 'in the strictest manner'" (*Arlona Ltd. Partnership v. 8th of Jan. Corp.*, 50 A.D.3d 933, 933, 857 N.Y.S.2d 208, quoting *White Rose Food v. Saleh*, 99 N.Y.2d 589, 591, 758 N.Y.S.2d 253, 788 N.E.2d 602), and a guarantor should be bound to the express terms of the written guaranty (see *66575 Eleventh Ave. Realty Corp. v. Schlanger*, 265 A.D.2d 270, 271, 697 N.Y.S.2d 270; *Walker v. Roth*, 90 A.D.2d 847, 456 N.Y.S.2d 95). In the amended complaint, the plaintiff alleges that the rental arrears that are the subject of the action accrued after the written lease with the plaintiff expired and while the defendant tenants were month-to-month tenants. Under these circumstances, the defendant guarantor had no obligations to the plaintiff under the written guarantee.

These principles are illustrated in *665-75 Eleventh Avenue Realty Corp. v. Schlanger*, 265 A.D.2d 270, 270, 697 N.Y.S.2d 270, 271). There the Court affirmed that a guarantor's liability did not extend to a holdover tenancy. In that case, the tenant remained in possession as a month-to-month tenant after the lease expired. The court held that since there was no written extension of the original lease, the guarantor was not liable for the rent during the holdover period. In arriving at this conclusion, the court relied on the strict construction principles that apply to

guarantees. Similar results were reached in *Archives, L.L.C. v. Volpe*, 220 A.D.3d 560, 560, 199 N.Y.S.3d 25, 26.

Plaintiff contends that since the guarantor agreed to guarantee the defendant tenants' obligation to pay rent during their tenancy, he should be held liable under the guaranty for the entire time the defendants remained in possession. The Court must reject this argument. Construing the guaranty in this manner would be inconsistent with the rules of strict construction. For the above reasons, plaintiff's claim under the guaranty is patently devoid of merit and insufficient as a matter of law and cannot proceed.

Similarly, plaintiff's claim for attorneys' fees under the written lease are patently devoid of merit and insufficient as a matter of law and cannot proceed. Plaintiff's entitlement to attorneys' fees under the written lease agreement turns on whether the lease agreement was in effect during the period of time that the alleged rental arrears accrued. As stated above, it was not.

For the above reasons, it is hereby

ORDERED that to the extent the plaintiff is seeking to amend the complaint to include a claim against the guarantor and a claim for attorneys' fees pursuant to the written lease agreement, the motion is in all respects denied. The motion is otherwise granted; it is further

ORDERED that the plaintiff is directed to file and serve a copy of an amended complaint consistent with this order within 30 days of service of this order with notice of entry. The defendants will have the statutory time in which to interpose an answer.

This constitutes the decision and order of the Court.

Dated: September 16, 2025

PPS

PETER P. SWEENEY, J.S.C.

2025 SEP 17 A 10: 27
FILED
KINGS COUNTY CLERK

Note: This signature was generated electronically pursuant to Administrative Order 86/20 dated April 20, 2020