

Windermere Owners, LLC v Tarantino
2026 NY Slip Op 32082(U)
June 2, 2026
Civil Court of the City of New York, New York County
Docket Number: Index No. LT-321686-24/NY
Judge: Eleanora Ofshtein
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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: HOUSING PART A

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WINDERMERE OWNERS, LLC,

Index No.: LT-321686-24/NY

Petitioner,

-against-

DECISION/ORDER

PAULA TARANTINO,

(Seq. 1 & 2)

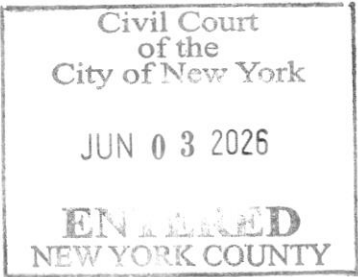
Respondent-Tenant,

“JOHN DOE” and “JANE DOE”

Respondents-Undertenants,

666 WEST END AVENUE
APT. 14T
NEW YORK, NY 10025

Subject Premises.



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Hon. ELEANORA OFSHTEIN

Judge, Housing Court

Recitation, as required by CPLR 2219 (a), of the papers considered in the review of Respondent’s motion to for summary judgment and to consolidate cases and Petitioner’s cross-motion for summary judgment.

PAPERS	NYSCEF DOC.
Notice of Motion & Affidavits Annexed.....	11-20
Notice of Cross-Motion & Affidavits Annexed.....	23-27
Answering Affidavits to Cross-Motion and Reply Affidavits.....	30
Reply Affidavits.....	31-38
Notice of Rejection.....	39

Upon the foregoing cited papers, the decision and order of the motions is as follows:

Procedural History and Factual Background

Petitioner, Windermere Owners, LLC, brought this holdover proceeding seeking possession of apartment 14T, located at 666 West End Avenue, in New York, NY, against Respondent, Paula Tarantino, alleging that Respondent is a rent-stabilized tenant who has failed and refused to accept and sign a duly offered renewal lease (NYSCEF 1).

Respondent, through counsel, interposed a verified answer with counterclaims (NYSCEF 7), asserting various defenses, including failure to state a cause of action because the lease offered was improper; Respondent is not required to sign a lease as a statutory tenant of a Single Room Occupancy (“SRO”) unit; a defense and counterclaim related to harassment; and counterclaims for sanctions and attorney’s fees.

Respondent then filed this motion (Seq. 1) seeking summary judgment in her favor; to consolidate this proceeding with twenty-seven (27) other holdover proceedings brought against her neighbors in the subject building; and for the proceeding to be set down for a hearing on her counterclaims. The crux of Respondent’s argument is that as a rent-stabilized SRO tenant, she has no obligation to sign any lease. Thus, a cause of action for failure to renew cannot lie against her. Further, while the New York State Home and Community Renewal Division of Housing and Community Renewal (“DHCR”) order, which decided both parties’ Petitions for Administrative Review (“PAR”), expressly required Petitioner to offer leases, it did not specifically mandate that the tenants sign such leases. Additionally, Respondent argues that to sign the lease would prejudice her as it would substantially and unfavorably alter the terms of her tenancy. Because the other holdover proceedings involve identical issues, Respondent seeks consolidation of the cases to this case, which has the lowest Index Number.

In opposition, Petitioner quotes that language of the DHCR PAR order (see NYSCEF 15) and argues that since the subject building has been reclassified from a hotel to an apartment building, all the provisions of the Rent Stabilization Code (“RSC”) apply. Further, the underlying order by the Rent Administrator (“RA”), affirmed by the PAR, allowed the tenants sixty days to accept and elect their option of a one- or two-year lease. Thus, having offered the required lease option, after sixty days, an action for failure to renew would lie. Petitioner cross-moves for

summary judgment (Seq. 2) arguing that since Petitioner offered a lease in accordance with the PAR order, and since Respondent failed to sign the lease offered, Petitioner is entitled to judgment in its favor, as a matter of law.

In reply and opposition to the cross-motion, Respondent argues that the lease offered is facially defective in that it is not on the prescribed form, does not offer a one- or two-year lease term, demands return within ten days, and includes new terms. Respondent further contends that Petitioner failed to exhibit sufficient proof in admissible form to sustain a claim for summary judgment in its favor.

In reply, Petitioner attempts to distinguish caselaw cited by Respondent and argues that its good-faith attempts to comply with the PAR order cannot constitute harassment, or subject them to sanctions.

For the reasons stated below, Respondent's motion is granted in part and denied in part, and Petitioner's motion is denied in its entirety.

Discussion

Summary Judgment

CPLR §3212 provides that a motion for summary judgment "shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party." Summary judgment is a drastic remedy (*Andre v Pomeroy*, 35 NY2d 361, 364 [1974]), appropriate only when there is "a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact" (*Deleon v New York City Sanitation Dept*, 25 NY3d 1102, 1106 [2015]; *Alvarez v Prospect Hosp*, 68 NY2d 320, 324 [1986]). "On a motion for summary judgment, facts must be viewed "in the light most

favorable to the non-moving party'" (*Vega v Restani Constr Corp*, 18 NY3d 499, 503 [2012], quoting *Ortiz v Varsity Holdings, LLC*, 18 NY3d 335, 339 [2011]). The function of summary judgment is issue finding, not issue determination (*Sillman v Twentieth Century Fox Film Corp*, 3 NY2d 395, 404 [1957]). "A motion for summary judgment should not be granted where the facts are in dispute, where conflicting inferences may be drawn from the evidence, or where there are issues of credibility" (*Ruiz v Griffin*, 71 AD3d 1112, 1115 [2d Dept 2010], internal quotation marks and citation omitted).

The DHCR RA Order applied to the subject premises (NYSCEF 25 p. 6). The RA Order commanded, "since these units are now subject to rent stabilization, the owner is further directed to offer any rent regulated tenant that currently does not have a rent stabilized lease, a lease for a one (1) or two (2) year term, at the tenants' option, in accordance with Rent Stabilization Law and Code. The tenants shall be afforded sixty days (60) to accept such offer and elect their option." (*id.* at p. 3). The RA order's lease term option refers to 9 NYCRR [RSC] §2522.5 (a) (1) [vacancy lease] ["the owner shall provide to the tenant a copy of the fully executed lease for a one- or two-year term, at the tenant's option"] and (b) (1) [renewal lease] ["the tenant shall have the right of selecting at his or her option a renewal of his or her lease for a one- or two-year term"].

The RA Order was upheld and affirmed on appeal in the PAR Order (NYSCEF 26 p. 7 ["the Rent Administrator properly reclassified the building from a hotel to an apartment building under the RSC"; and "the Rent Administrator properly directed the owner to offer any rent regulated tenant that did not have a rent stabilized lease a lease for one or two years at the tenant's option in accordance with the Rent Stabilization Law and Code"]). There can be no question that a rent stabilized tenant is entitled to elect whether to renew their lease for their

chosen term. A lease offer without that option would constitute an agreement to waive a benefit of the RSC and would be void against public policy (RSC §2520.13; *Jazilek v Abart Holdings LLC*, 10 NY3d 943 [2008]; *Georgia Props, Inc. v Dalsimer*, 39 AD3d 332, 334 [1st Dept 2007]).

Petitioner's cover letter to Respondent, dated October 1, 2024, with the lease offer, advised as follows: "Please be aware that you may not make any changes to the enclosed lease forms. You may either accept or reject the lease on the terms offered" (NYSCEF 19 p. 1). The lease offered had a one-year term, commencing October 1, 2024, and expiring September 30, 2025 (*id.* at p. 10). Next to the box for a two-year lease term appear the words "Not Applicable" (*id.*). In addition to failing to offer the option of a two-year lease term, the lease is not on a form prescribed or approved by DHCR (*see* RSC §2523.5 [a]), which itself is a fatal flaw (*Haberman v Neumann*, 2003 NY Slip Op 50031[U] [App Term, 1st Dept 2003]). Finally, in its letter, Petitioner insists that the tenant must return the lease offer in ten days (NYSCEF 19 p. 1) instead of the sixty days specified in the Code (RSC §2523.5 [a]), as well as in accordance with the RA and PAR Orders. Assuming *arguendo*, that Petitioner is correct that "Respondent's objections to the terms of the offered lease are limited to Petitioner's compliance with the Rent Stabilization Code" (NYSCEF Doc. No. 24 ¶53), this lease offer plainly does not comply with the RSC.

Therefore, Respondent has made a *prima facie* showing of entitlement to judgment, as a matter of law, as to her defense that the lease offer was improper. Respondent is also correct that the citation to RSC §2524.3 (a) [violating a substantial obligation of her tenancy] in the notice of termination is, at best, superfluous, given that section (f) specifically provides for eviction for failure to renew.

"Once this showing has been made, . . . the burden shifts to the party opposing the motion for summary judgment to produce evidentiary proof in admissible form sufficient to

establish the existence of material issues of fact which require a trial of the action” (*Bazdaric v Almah Partners LLC*, 41 NY3d 310, 316 [2024] quoting *Alvarez v Prospect Hosp*, 68 NY2d 320, 324 [1986]).

Petitioner does not dispute that it offered Respondent the lease exhibited in NYSCEF 19. Further, Petitioner does not advance any argument as to why its lease offer was proper, other than assertions that “Respondent’s claim that something was inherently wrong with the lease that was offered has no merit” (NYSCEF 24 ¶77). Accordingly, Respondent’s motion for summary judgment is granted to the extent of dismissing the petition on the grounds that Petitioner failed to offer a proper lease.

Consolidation

“On the application of ... any party, ... the housing part of the civil court shall, unless good cause is shown to the contrary, consolidate all actions and proceedings pending in such part as to any building” (NY City Civ Ct Act §110 [b]). CPLR §602(a) allows for motions for consolidation or joint trial of “actions involving a common question of law or fact.” (*see Morrell & Co Wine Emporium, Ltd v Richalan Realty Corp*, 93 AD2d 736, 737 [1st Dept 1983]; *Notarius v Hess Oil & Chem Corp*, 30 AD2d 663 [2d Dept 1968]). “Public policy favors the goals of efficiency and economy for the courts and the litigants. This procedure avoids inconsistent decisions” (*75 Post Realty LLC v Chavez*, NYLJ, Jul 5, 2017 at 28, 2017 NYLJ LEXIS 1711 [Civ Ct, Kings County 2017] [internal citations omitted]).

Respondent seeks to consolidate this holdover with twenty-seven others, claiming they all have identical issues between Petitioner, Respondent, and Respondent’s neighbors. The Court takes Judicial Notice of the following cases:

LT-322248-24/NY Windermere Owners LLC v Bogatin, Part D: Respondent's motion for summary judgment was already granted (*see* NYSCEF 46) and a motion for legal fees is *sub judice* in Part D; and
LT-322291-24/NY Windermere Owners LLC v Audige: Case was discontinued (*see* NYSCEF 6).

The remaining cases, specified below, include representation by different counsel for Respondents, potentially creating conflicts in litigation strategy, and in two cases, the lack of representation:

LT-322258-24/NY Windermere Owners LLC v Sorkin, Part H;
LT-322263-24/NY Windermere Owners LLC v Blank, Part C;
LT-302097-25/NY Windermere Owners LLC v Weistuch, Part D;
LT-302101-25/NY Windermere Owners LLC v Han, Part A;
LT-302111-25/NY Windermere Owners LLC v Lee, Part A;
LT-302113-25/NY Windermere Owners LLC v Nutovits, Part H;
LT-302120-25/NY Windermere Owners LLC v Pandya, Part H;
LT-302121-25/NY Windermere Owners LLC v Siansky, Part H;
LT-302126-25/NY Windermere Ownes LLC v Primavera, Part G;
LT-302129-25/NY Windermere Ownes LLC v Breckling, Part G; and
LT-302149-25/NY Windermere Owners LLC v Litsinger, Part H.
The above Respondents are represented by the Rozen Law Group.

LT-301404-25/NY Windermere Owners LLC v Neumann, Part F.
Respondent is represented by The Legal Aid Society.

LT-302094-25/NY Windermere Owners LLC v Rehman, Part C.
Respondent is represented by Housing Conservation Coordinators.

LT-302098-25/NY Windermere Owners LLC v Liebert, Part C;
LT-302110-25/NY Windermere Owners LLC v Devers, Part A; and
LT-302150-25/NY Windermere Owners LLC v Macrae, Part H.
The above Respondents are represented by Law Offices of Fred L. Seeman.

LT-302100-25/NY Windermere Owners LLC v Rahav, Part D;
LT-302107-25/NY Windermere Owners LLC v Kirchner, Part A; and
LT-302108-25/NY Windermere Owners LLC v Durham, Part A.
The above Respondents are represented by Manhattan Legal Services.

LT-302127-25/NY Windermere Owners LLC v Riki Mullu, Part H;
LT-302153-25/NY Windermere Owners LLC v Willis, Part H; and
LT-302160-25/NY Windermere Ownes LLC v Gregory, Part G.
The above Respondents are represented by the New York Legal Assistance Group.

LT-302151-25/NY Windermere Owners LLC v Cohen, Part G.
Respondent is represented by Hayes Schanzer LLP.

LT-322250-24/NY Windermere Owners, LLC v Alexe, Part G.
LT-322249-24/NY Windermere Owners LLC v Hirsch, Part G.
The above Respondents are unrepresented.

Respondent has also failed to show that there are common issues of law and fact. The leases offered are not exhibited in most of these cases, thus it is impossible for this Court, on this record, to determine whether consolidation is appropriate. In some cases, Respondents have not answered, also making it impossible to gauge the commonality of defenses. Therefore, consolidation is denied, without prejudice.

Hearing on Counterclaims

Respondent's counterclaims are adjourned for all purposes, including for settlement, or to be referred out to Part Ex for trial.

Petitioner's Motion

Given the foregoing, Petitioner's motion is denied.

Conclusion

Accordingly, it is ORDERED that Respondent's motion (Seq. 1) is GRANTED IN PART AND DENIED IN PART; and it is

ORDERED that the branch of Respondent's motion seeking summary judgment is GRANTED, and the petition is DISMISSED; and it is

ORDERED that the branch of Respondent's motion seeking consolidation is DENIED; and it is

ORDERED that the branch of Respondent's motion on its counterclaims is adjourned for settlement or trial; and it is

ORDERED that Petitioner's cross-motion (Seq. 2) is denied.

ORDERED that the proceeding is ADJOURNED for all purposes, as ordered above, to
Part A, Room 526, on July 16, 2026 at 9:30AM.

This constitutes the decision and order of the Court.

Date: June 2, 2026



Hon. Eleanora Ofshtein
Judge, Housing Court

ENTERED
June 2, 2026
Civil Court of the City of New York