STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET NO.: KM210025RT
[redacted] PETITIONER	RENT ADMINISTRATOR'S DOCKET NO: IQ210009RV
----------X	OWNER: Yisacher Zevulan Realty, Corp.

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named petitioner filed a timely petition for administrative review (PAR) of an order issued on December 17, 2021 by the Rent Administrator (RA) concerning the housing accommodation known as Apartment [redacted] at 61 Harrison Avenue, Brooklyn, New York 11211.

The Commissioner has reviewed all of the evidence in the record, and carefully considered that portion of the record relevant to the issues raised by this PAR.

On May 12, 2020, the petitioner filed a lease violation complaint alleging that she served the previous apartment lessee, [redacted], for twenty-seven years; that she is the "daughter" and "primary health care attendant" for his physical and medical needs with uninterrupted residency for the last 27 years in the subject apartment. She enclosed a copy of a two-year lease signed by [redacted] for the period ending May 31, 2020 as well as a copy of a check she wrote for the May 1, 2020 rent of the subject apartment in the amount of $760.70.

In answer, the owner stated that the tenant of record was [redacted] who passed away in the beginning of May 2020; that his lease expires on May 31, 2020; that the tenant lived there by himself for many years; that he has a son who lives at [redacted] and that the son expressed to the owner that he is not interested in claiming succession rights to the apartment since he does not live there. The owner further answered that the caretaker's name is [redacted] and her address is [redacted] the same address as the complaint; that it is also the same address in a copy of the check which she attempted to tender for rent, but the owner did not deposit it because she does not claim succession, but only that she served the tenant of record "as a daughter" and a healthcare attendant; that she is not a biological daughter; that she does not reside in the subject apartment; and that she therefore is not entitled to a renewal lease. The owner also asserted that the complainant's claim that the tenant of record is exempted from a rent increase because he had Senior Citizen Rent Increase Exemption (SCRIE) may be bogus because

if the complainant lived there as a healthcare attendant, [redacted] may not be eligible for SCRIE. Additionally, upon the tenant's death, the complainant [redacted] wrote to the owner a letter (a eulogy of sorts) which she signs as a "Devoted Misheretet" which is a Hebrew word for house helper. As such, she is not a family member and has not shown any eligibility for succession under the law.

On August 17, 2021, DHCR requested specific information/evidence from the petitioner to show (1) the legal tenant, [redacted] permanently vacated the apartment; (2) proof of her relationship with the tenant; and (3) documents indicating that she resided in the apartment with the tenant of record at least two years prior to the permanent departure of the tenant from the subject apartment.

In reply, petitioner submitted 49 documents which were generally references on her character as active in civic duties (political elections) and giving free service to her [redacted] These letters were from politicians, building personnel, and friends from her synagogue. She said that she was a student of [redacted] for many years and was so trusted that [redacted] made her the primary caregiver to help in social services, financial documents (such as Excess Income Document), doctors' appointments, medications, emergencies and hospitalizations.

Thereupon, the RA issued the order under review, finding that the complainant failed to submit evidence as requested on August 17, 2021 by the DHCR notice and denied her succession claim.

On PAR, petitioner contends that because of her non-traditional familial rights, she should succeed to the subject apartment upon the death of the primary tenant. She submits notarized statements from [redacted] children and their wives, indicating that everything in [redacted] apartment should be [redacted] that [redacted] would attend all the weddings and other affairs of [redacted] family; that [redacted] and [redacted] should have married but it never happened because of [redacted] illness and death; and that her and [redacted] companionship in various political, temple and other charitable works for the community is without question.

In answer, the owner asserts that some of the petitioner's documents were not submitted to the RA, and should be rejected for being outside the scope of review which is limited to the issues and evidence before the RA. Even so, all of her PAR submissions do not prove that she is a family member of and/or having an emotional and financial interdependence with the tenant of record, pursuant to the succession statute.

In reply, the complainant repeated her PAR contentions which are based on her religious and spiritual bonds with the tenant of record.

Having reviewed the entire record, the Commissioner denies the PAR.

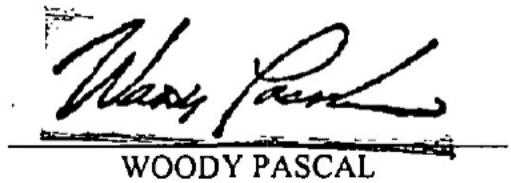
Under Rent Stabilization Code §2520.6(o)(2), §2523.5 and DHCR Fact Sheet 30, a person who is a non-traditional family member may have the right to a rent stabilized renewal lease or protection from eviction in an apartment when the tenant of record dies if such person can prove permanent residency in the subject apartment two years prior to the permanent departure of the tenant of record as well as an emotional and financial commitment and interdependence between the person and the tenant of record.

Here, the petitioner failed to submit a death certificate of [redacted] evidencing his permanent departure from the subject apartment. Petitioner also failed to prove primary residency with him in the subject apartment for two years prior to his death. The evidence indicates that petitioner's mailing address is [redacted] not the subject apartment. Therefore, even if the Commissioner would consider the evidence of emotional ties between petitioner and [redacted] she fails to establish succession rights based on the evidence in this case. Again, the evidence submitted does not establish her primary residency with the tenant of record for two years prior to his death.

THEREFORE, in accordance with the Rent Stabilization Law and Code, it is

ORDERED, that the petition for administrative review be, and the same hereby is, denied; and that the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:
APR 01 2022



WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET NO.: KM910019RO
Sheridan Gardens, LLC	RENT ADMINISTRATOR'S DOCKET NO: JT910034RV
PETITIONER	TENANT: [redacted]

----------X

ORDER AND OPINION GRANTING PETITION FOR ADMINISTRATIVE REVIEW

The petitioner-owner filed a timely petition for administrative review (PAR) of an order issued on January 13, 2022 by the Rent Administrator (RA) concerning the housing accommodation known as apartment [redacted] at 55 Sheridan Avenue, Mount Vernon, New York 10552.

The Commissioner has reviewed all of the evidence in the record and has carefully considered that portion of the record relevant to the issues raised by this PAR.

On August 16, 2021, the tenant, who has been in occupancy of the subject apartment since September 1998, filed a lease violation complaint alleging that the owner refuses to renew his lease. Attached to the complaint is a copy of the owner's Notice of Intention Not to Renew Lease Based on Non-Primary Residence, dated April 20, 2021. A representative of the tenant wrote to the owner on May 7, 2021 denying the owner's claim that he does not reside in the subject apartment.

On September 1, 2021, DHCR mailed the complaint to the owner.

The RA, noting that the owner had not answered the complaint, found that the tenant's complaint was granted by default and directed the owner to offer the tenant a renewal lease.

On PAR, the owner contends that the RA failed to consider a timely answer to the complaint (copy of answer and proof of mailing dated September 10, 2021 attached). The answer and the PAR set forth the defense that the owner was not obligated to offer a renewal lease based on the April 20, 2021 Notice of Intention Not to Renew Lease Based on Non-Primary Residence served on the tenant. The owner has also commenced a holdover proceeding

PAR Docket Number KM910019RO

(Sheridan Gardens LLC v. [redacted] Index Number 822-2021) pending in Mount Vernon City Court.

Having reviewed the record, the Commissioner grants the PAR and revokes the RA order.

The owner has submitted proof that it timely answered the lease violation complaint and that the RA should not have granted the tenant's complaint on default. As such, the owner's answer will be considered on PAR.

Section 2504.4 of the Emergency Tenant Protection Act (ETPA) enumerates the grounds for refusal to renew lease and proceed for eviction. Subsection (d) states, in relevant part, "Primary residence- The housing accommodation is not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction."

Here, given the fact that the owner served the Notice of Intention Not to Renew Lease Based on Non-Primary Residence four months before the DHCR complaint was filed and that the Holdover proceeding was commenced in September 2021, the agency should not have directed the owner to offer a lease renewal. Such directive is revoked, and the issues of primary residence and lease renewal will be determined by the Court.

While the primary-residence issue is actively litigated in Court, the Commissioner notes that the subject tenant is a month-to-month tenant until the Court's final decision.

THEREFORE, in accordance with the Emergency Tenant Protection Act, it is

ORDERED, that the petition for administrative review be, and the same hereby is, granted; and that the Rent Administrator's order be, and the same hereby is, revoked.

ISSUED:
APR 08 2022

WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET: KN110013RO
149th Street, LLC PETITIONER	RENT ADMINISTRATOR'S DOCKET NO: JN110045RV
----------X	TENANT: [redacted]

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named owner filed a timely petition for administrative review (PAR) of an order issued on February 16, 2022 by the Rent Administrator (RA) concerning the housing accommodation known as apartment [redacted] at 90-10 149th Street, Jamaica, NY 11435.

The Commissioner has reviewed all of the evidence in the record and has carefully considered that portion of the record relevant to the issues raised by this PAR.

On February 5, 2021, the tenant filed a lease violation complaint alleging that the owner refused to recognize his succession rights and offer a renewal lease after his grandmother [redacted] passed away.

In answer, the petitioner submitted a copy of a February 14, 2020 renewal lease issued to [redacted] as second successor to his grandmother. Petitioner argued that [redacted] was a first successor following the death of her husband who was the previous tenant of record.

DHCR served the owner with a Request for Additional Information/Evidence (RFAI) stating that DHCR records indicate that [redacted] was added to the lease as a co-tenant according to the 2000 apartment registration. The RFAI asked the owner to provide evidence that [redacted] is only entitled to a second succession renewal lease.

On February 2, 2022, the owner replied that upon receipt of all the documentation provided by the tenant, it had issued a renewal lease in the name of the tenant as a second successor to the apartment since his late grandmother succeeded her late husband as the first successor; and that attached is a copy of a 2000 lease with the signature of [redacted] and the owner; the name of the co-tenant [redacted] was removed by a handwriting "he does not live here." Also handwritten on the copy of the lease is: "[redacted] is the first successor." The owner asserted that there was an error in the 2000 apartment registration.

The RA determined that the late grandmother was registered as a co-tenant in the 2000 DHCR's apartment registration, and that the owner failed to provide sufficient proof that the late [redacted] was ever granted first succession rights to the subject apartment. The RA ordered, inter alia, that the tenant, [redacted] is entitled to a renewal lease and rights to the apartment as the first successor, and not as the second successor.

On PAR, petitioner contends that the owner should not be penalized for an error in the 2000 apartment registration which was corrected on subsequent registrations; that DHCR fails to state exactly what is substantial proof of succession in that the owner is not required to notify the DHCR of a first succession; that [redacted] gave possession of the apartment to [redacted] creating the first succession tenancy; and that the owner submitted the lease renewal which was signed solely by [redacted] on February 28, 2000.

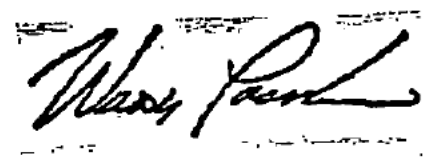
The Commissioner denies the PAR.

The 2000 renewal lease submitted by the owner with the cross out of [redacted] name and the notations that "he does not live here" and that "[redacted] is the first successor" is insufficient evidence that the current tenant is a second successor. No explanation is given as to why [redacted] is listed as a co-tenant in the 2000 apartment registration which was filed on July 31, 2000 and indicates a lease term of June 1, 1998 through May 31, 2000. Moreover, the next year's registration also lists [redacted] as a co-tenant for the lease term June 1, 2000 through May 31, 2002. The assertion of an error in the registrations does not satisfy the owner's burden of proving that [redacted] was a first successor. The presumption that as [redacted] wife, [redacted] was entitled to co-tenancy (and subsequently a lease in her own name upon [redacted] vacating the apartment) has not been rebutted. Given [redacted] primary tenancy, which was not created by succession, her grandson is entitled to first succession rights to the apartment.

THEREFORE, in accordance with the relevant Rent Stabilization Law and Code, it is

ORDERED, that the petition for administrative review be, and the same hereby is, denied, and that the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:
APR 21 2022



WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET NO.: KN410015RT
[redacted]	RENT ADMINISTRATOR'S DOCKET NO: HX410081RV
PETITIONER	

----------X OWNER: Greater Harlem Housing Dev. Corp.

ORDER AND OPINION REMANDING PROCEEDING

The petitioner-tenant filed a timely petition for administrative review (PAR) of an order issued on January 21, 2022 by the Rent Administrator (RA) concerning the housing accommodation known as apartment [redacted] at 2518 Frederick Douglass Blvd., New York, NY 10030.

The Commissioner has reviewed all of the evidence in the record, and carefully considered that portion of the record relevant to the issues raised by this PAR.

On December 23, 2019, the tenant filed a lease violation complaint alleging that the owner refused to renew his lease on the same terms and conditions as the expiring lease. The tenant stated that [redacted], a tenant advocacy organization, located at [redacted], is his legal representative. Attached to the complaint was a copy of a letter from [redacted] stating that it is representing the tenant in his Disability-Rent-Increase-Exemption (DRIE) application; and also attached were copies of the tenant's fully executed 2011 lease and of an unsigned renewal lease, dated July 31, 2019, commencing November 1, 2019.

On January 3, 2020, DHCR mailed a copy of the tenant's complaint to the owner. In the notice to the owner, the RA included the name of tenant's representative.

On July 6, 2021, the owner interposed an answer and submitted a copy of the same unsigned renewal lease which was offered to the tenant on July 31, 2019 to commence on November 1, 2019.

PAR Docket Number KN410015RT

On December 2, 2021, DHCR served the tenant with a copy of the owner's answer and a Request for Additional Information (RFAI) without mentioning the tenant's representative. The tenant failed to reply to questions, such as whether he signed and executed the renewal lease and whether the issues have been resolved .

The RA issued the appealed order terminating the proceeding stating that there appears to be no more issue after the filing of the complaint.

On PAR, the tenant contends that he did not sign the renewal lease because it was not on the same terms and conditions as his expiring lease; and that his legal representative, [redacted], did not receive a copy of the owner's answer which was mailed on December 2, 2021, which resulted in a denial of due process. The tenant asserts that he did not sign the renewal lease because the owner included an unlawful preferential rent rider and attempted to add new terms and conditions in the "Apartment Rules and Regulations" rider.

Having reviewed all submissions in the RA and PAR files, the Commissioner is of the opinion that the matter should be remanded to the RA for further processing.

While the Commissioner recognizes that the tenant intended to have [redacted] represent him in this lease violation proceeding, the actual [redacted] letter included with the complaint states that it represents the tenant in the tenant's DRIE application. As such, [redacted] was not the tenant's representative before the RA and did not have to be served.

The proceeding is remanded for a merits determination on the issue of the propriety of the renewal lease. While the owner alleges that the tenant executed the disputed renewal lease, the copy that the owner submitted was indeed not signed. The Commissioner finds that the tenant was not required to respond to that owner's submission because it did not say anything that needed response, as there was no executed lease submitted. In sum, the proceeding was improperly terminated without a determination on the terms of the renewal lease and whether it had in fact been signed.

THEREFORE, in accordance with the Rent Stabilization Law and Code, it is

ORDERED, that the matter is remanded to the Rent Administrator for further processing in accordance with this order and opinion.

ISSUED: MAY 16 2022

WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET NO.: KO410003RT
[redacted]	RENT ADMINISTRATOR'S DOCKET NO: IQ410037RV
PETITIONER	
----------X	OWNER: Pe Management

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named petitioner filed a timely petition for administrative review (PAR) of an order issued on January 27, 2022 by the Rent Administrator (RA) concerning the housing accommodation known as Apartment [redacted] at 211 East 4th Street, New York, NY 10009.

The Commissioner has reviewed all of the evidence in the record, and carefully considered that portion of the record relevant to the issues raised by this PAR.

On May 28, 2020, the tenant filed a lease violation complaint alleging that the owner refused to renew his two-year lease.

In an answer dated July 29, 2020, the owner denied the tenant's allegation, and otherwise stated that on January 31, 2020, it offered a renewal lease to the tenant in the subject apartment, as the current lease ended on April 30, 2020. On May 3, 2020, the tenant emailed to the owner alleging that he did not receive the lease offer. The owner informed the tenant that the lease offer was mailed to the tenant three months earlier; and the owner mailed the lease renewal to the tenant a second time. As of July 2020, the tenant had not returned the executed renewal lease to the owner, instead the owner received the tenant's complaint from DHCR. After the owner filed the answer to the tenant's DHCR complaint, the owner confronted the tenant about his matter. The tenant had no answer; but the owner was able to persuade the tenant to execute the lease renewal, and the tenant selected a two-year lease due to terminate on April 30, 2022.

On December 1, 2021, DHCR served to the tenant a copy of the owner's answer and a Request for Additional Information (RFAI). DHCR informed the tenant that, if he did so, to submit a a copy of the fully executed renewal lease and to advise the RA if this issue has been resolved. The RFAI put the tenant on notice to reply to the owner's answer within 20 days from the mailing date of the RFAI; and that failure to do so shall result in an Order terminating his application, based solely on the record presently before the RA.

Because of the tenant's failure to reply to the December 1, 2021 notice, the RA terminated the tenant's application on January 27, 2022.

On PAR, the tenant contends that he would like the order to be modified to reflect that he received his lease renewal 6 months late and only as a result of the complaint; and that contrary to the owner's July 29, 2020 answer, he was neither approached in person about a lease renewal nor did he refuse the renewal offer in person.

The owner interposed an answer to the PAR, reiterating its contentions before the RA, i.e. that neither the owner nor any other party refused to provide the tenant with a lease renewal; and that any delay was on the part of the tenant.

Having reviewed the record, the Commissioner denies this PAR.

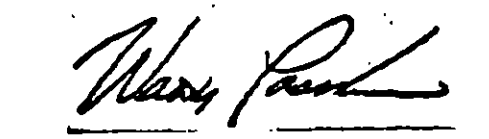
Under Rent Stabilization Code (RSC) Section 2529.6, PAR review shall be limited to facts or evidence before the RA. The Commissioner notes that the basis of scope of review is twofold. First, scope of review promotes administrative efficiency in that it mandates that the parties to a dispute set forth all their arguments and supporting evidence to the initial administrative fact-finder, in this case, the RA. Second, scope of review prevents the manufacturing of evidence after the parties have had a chance to see the initial administrative determination. Because of the scope-of-review provision which applies when there is failure to respond to duly requested documents and when no valid excuse is offered for this failure to comply, the Commissioner will not entertain the submissions raised for the first time on PAR.

Given that the petitioner-tenant, though duly notified to do so, failed to respond to the December 1, 2021 RFAI, the Commissioner rejects the PAR allegations as outside the scope of review which is limited to the issues and evidence before the RA. Moreover, the PAR allegations were already addressed and denied by the owner's detailed answer in the RA proceedings, which the tenant failed to challenge. Accordingly, the PAR has not raised any basis to modify or revoke the RA's order which was in all respects correct when issued.

THEREFORE, in accordance with the Rent Stabilization Law and Code thereunder, it is

ORDERED, that the petition for administrative review be, and the same hereby is, denied; and that the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:
MAY 27 2022



WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

X

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO.: JX410018RO

RENT ADMINISTRATOR'S
DOCKET NO.: HP410006RK

65 SPRING REALTY LLC.

TENANT: [redacted]

PETITIONER X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The Petitioner-Owner timely filed an administrative appeal ("PAR") against the above-referenced Order issued on November 15, 2021, by the Rent Administrator (RA) concerning the housing accommodation known as Apartment [redacted] located at 65 Spring Street, New York, New York which Order found that the subject apartment was illegally deregulated.

Based on the evidence in the record, the RA determined that the subject apartment was illegally deregulated and that it is therefore subject to the Rent Stabilization Law (RSL) and Code (RSC). Then, the Owner filed an application for reconsideration. As a result, the matter was reopened under the above-referenced Docket HP410006RK, to address correspondence from the tenant received on October 10, 2018, which was not forwarded to the Owner in the lease violation proceeding (FP410081RV). Under Docket HP410006RK, the RA found that the Owner did not submit any additional evidence and that as such, there was no reason to disturb the previous Order (FP410081RV).

On PAR, the petitioner asserts that the RA's Order should be reversed in its entirety because it is arbitrary and capricious, wrong, and is based on a misapprehension of facts and law. The petitioner asserts that the Order has no discussion of the law or facts used in making the determination. The petitioner submits evidence that it alleges shows that the apartment is not subject to the Rent Stabilization Law because the first subtenant ([redacted]) took possession of the apartment at a rent of $1,800.00 per month on February 1, 2003 pursuant to RSC §2526.1 (a)(3) (iii), then, the complainant-tenant took possession of the subject apartment on December 1, 2003, with a 17% vacancy increase that resulted in a monthly rent of $2,106.00 ($1,800.00 + $306.00), which exceeded the then deregulation threshold of $2,000.00 per month and therefore permanently deregulated the apartment as of this date.

In response to the PAR, the tenant asserts that the former owner's niece, [redacted] ([redacted]), paid $0.00 for rent and she was not a tenant at all, but a family member of the former owner, who was permitted to occupy the subject apartment rent-free; that the monthly rent of $1,800.00 charged to [redacted] was an illegal market rent for this apartment; that the monthly rent of $1,800.00 that the owner relies upon for its claim of vacancy deregulation was not a legal rent because it was not agreed between the owner and a tenant; that no legal rent was established and the legal rent was frozen at the last registered amount based on the landlord's failure to file one or more rent registrations; that the landlord's 2003 registration of the subject apartment as permanently exempt was false and fraudulent because, although the official deregulation registration was dated July 17, 2003, the owner claimed this apartment became deregulated on December 1, 2003 after the complainant took occupancy; and that the owner had already registered the apartment as deregulated more than four months earlier on July 17, 2003.

In reply, the Owner contends that, since the former owner was neither a professional landlord nor a large company, based on their inexperience, they used a sublease form, even though all of the rent payments were turned over to said former owner from [redacted]. The owner further contends that the use of subleases should be properly treated as regular leases. *See Docket XG210076RT (10/01/09); Docket DS410031RT (12/03/15);* Matter of Cipolla v. NYS DHCR, 153 A.D.3d 920 (2nd Dept. 2017) (a lack of registration does not invalidate an otherwise legal rent as discussed), Gordon v 350 Riverside Corp., 93 A.D.3d 590, 941 NYS2d 93 (1st Dept. 2012).

The Commissioner, having reviewed the entire evidentiary record, finds that the owner's PAR should be denied.

Pursuant to Regina Metro. Co., LLC v New York State Div. of Hous. & Community Renewal 2020 NY Slip Op 02127, the rent history look-back period in overcharge proceedings is restricted to a four-year period prior to the date of the complaint. However, the Commissioner finds that the extended rent review period applied by the RA in this case was permissible to determine the rent stabilized status of the subject apartment. *See* Rent Stabilized Code (RSC) §2526.1(a)(2)(iii).

The Commissioner finds that the former owner never treated any tenant as a rent stabilized tenant. Here, [redacted] was not a rent stabilized tenant. This is apparent from the former owner's affidavit, in which said owner attested that he "...allow[ed] family members to reside in [the] apartment without payment of any rent. The last family member to do so was my niece, [redacted]. From October 23, 1989 until February 1, 2003, the apartment was not rented to any tenant." As a result, [redacted] did not pay any rent. Pursuant to RSC §2520.6 (d), a "tenant" is defined as "[A]ny person or persons named on a lease as lessee or lessees, or who is or are a party or parties to a rental agreement and obligated to pay rent for the use or occupancy of a housing accommodation." Here, there were no leases or rental agreements between the former owner and [redacted], and [redacted] was not obligated to pay any rent as explained above. As a result, [redacted] was not a rent stabilized tenant under RSC§2520.6 (d).

Because [redacted] was not a rent stabilized tenant as explained above, because she had no lease with the former owner, and because the RSC requires that a subtenancy can only flow from a prime tenant with an existing lease (see RSC§2525.6), [redacted] was not able to create any rent stabilized subtenancy with a legitimate legal regulated rent (LRR). RSC §2520.11(r)(4) requires that there be a legitimate LRR upon which a legal deregulation must be based, and in the absence of a legitimate LRR there can be no deregulation. Given that [redacted] was legally incapable of creating a rent stabilized subtenancy with a valid LRR, that there was never any LRR under either of [redacted] alleged subtenancies, and that a deregulation may only be based upon a valid LRR, the apartment could not be, and was not, deregulated under either of these alleged subtenancies.

Further, where tenants are not offered a rent stabilized lease following an extended vacancy, which is the case herein, those tenants' rent cannot form the basis of a legal regulated rent (see Leheup v Direct Realty LLC 2008 N.Y. Misc. LEXIS 9303, (Sup Ct, NY County 2008), *10. citing Grogan v Laura Shapiro Kramer Assoc., Civ Ct, New York County, July 28, 2006, Finkelstein, J., index No. L&T 52173/06, at 4-5. Leheup itself found that, because the first tenants in that case were not offered a rent stabilized lease, there was therefore no LRR upon which a subsequent deregulation could be based. See also Docket JN410031RO (08/26/2021) affirmed on 341 West 19th St. Partners 2 LLC v. New York State Div. of Hous. & Cmty. Renewal, 2022 N.Y. Misc. LEXIS 2181. Therefore, the RA was correct to find that the former owner illegally deregulated the apartment in 2003.

The Commissioner notes that the subject apartment was registered as deregulated at a time the former owner attested that the apartment was temporarily exempt due to owner occupancy. The former owner further attested that the occupancy period of the first alleged subtenant began on February 1, 2003 and ended on November 30, 2003. However, the apartment was registered as exempt effective January 1, 2003. Furthermore, the deregulation registration was filed on July 17, 2003 (effective April 1, 2003), roughly five months prior to the complainant's move in date, which the current owner now alleges was the date of deregulation. It was impossible to legally deregulate the subject apartment on July 17, 2003, or on April 1, 2003, because at both of these times [redacted], the first alleged subtenant, was still occupying this apartment.

The Commissioner finds that the cases cited by the owner are not persuasive because in all those cases the owners sought to deregulate when said owners rented the apartments to the first tenants taking occupancy after a temporary exemption, while in the instant case the alleged deregulation supposedly occurred when an exempt non-tenant ([redacted]) rented to alleged subtenants. Therefore, the cases set by the owner are not analogous to the instant case.

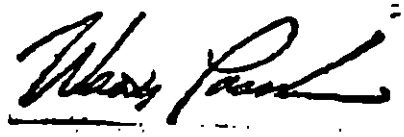
Additionally, the Commissioner is of the opinion that [redacted], an exempt non-tenant as explained above, may not be permitted to have facilitated deregulation of an otherwise regulated apartment through two alleged subtenancies. Moreover, the owner cannot base a subsequent deregulation on the rent paid by the purported subtenant. As a result, because the owner illegally deregulated the apartment as explained herein, the RA was correct to find the complainant is entitled to a lease renewal.

THEREFORE, in accordance with the applicable sections of the Rent Stabilization Law and Code, it is

ORDERED, that the petition be, and the same hereby is denied, and the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

JUN 01 2022



WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

X

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

Mirta Aureggi,

PETITIONER X

ADMINISTRATIVE REVIEW
DOCKET NO. JX410005RO

RENT ADMINISTRATOR'S
DOCKET NO. IW410027RV

Tenant: [redacted]

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The petitioner has filed an administrative appeal (PAR) against an order issued on November 23, 2021 by a Rent Administrator (RA) concerning the housing accommodation known as Apt. [redacted] at 23 East 81st Street New York, NY which directed the owner to offer the tenant a renewal lease.

The tenant filed a lease violation complaint alleging that the owner refused to offer him a renewal lease. The agency served the complaint on the owner, who did not respond. As such, the RA granted the complaint on default.

On PAR, the petitioner asserts that the mailing address for the owner on the complaint was incorrect and that the renewal lease was signed by both parties on November 19, 2020 and November 20, 2020, to be effective December 1, 2020 through November 30, 2022. The lease was sent to the tenant on November 30, 2020 and a copy of said renewal lease has been provided with this appeal.

The PAR will be denied.

The Commissioner finds that service of the complaint was properly effectuated at two locations, [redacted] (the address of the owner on file with DHCR) and 23 East 81st Street, 6, New York, New York 10028 (the address listed on the owner's property tax bill on file with

the Department of Finance). Neither mailing was returned to this agency by the post office.

Given that the owner did not respond to the complaint and based upon the evidence before the RA at the time his decision was rendered, the direction to offer a renewal lease was in all respects proper.

THEREFORE, in accordance with the relevant rent-regulatory laws and regulations, it is

ORDERED that this petition be, and the same hereby is, denied.

ISSUED:

JUN 13 2022

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET NO.: .KN210006RT
[redacted] PETITIONER	RENT ADMINISTRATOR'S DOCKET NO: JM210010RV
----------X	OWNER: Crown Prospect Associates, LP

ORDER AND OPINION GRANTING PETITION FOR ADMINISTRATIVE REVIEW

The above-named complainant filed a timely petition for administrative review (PAR) of an order issued on January 25, 2022 by the Rent Administrator (RA) concerning the housing accommodation known as Apartment [redacted] at 550 Saint John's Pl. Brooklyn, NY 11238.

The Commissioner has reviewed all of the evidence in the record, and carefully considered that portion of the record relevant to the issues raised by this PAR.

In order under review, the RA found that on January 17, 2021, the complainant filed a lease violation complaint stating that he is entitled to succession rights because he resided in the subject apartment for twenty years with his father until his father's death on July 4, 2020.

The owner interposed an answer, asserting that if the complainant provides a NYS issued driver's license and other official document proving that he resided in the apartment two years prior to his father's death, the owner will grant the complainant succession rights.

The complainant did not respond, and the proceeding was terminated.

Now in this appeal, the complainant contends that on September 27, 2021, he sent all the necessary documents: tax records, birth certificate, records from the Department of Motor Vehicles, bank statements and death certificate.

In answer, the owner stated that it has not received any documentation of the two-year required residency prior of the death of the tenant of record; but that it has no objection to give [redacted] succession rights if he has documentation such as NYS driver's license or any equivalent of his legal residence in the subject apartment.

In reply, the complainant submitted the following documents: [redacted] birth

certificate; his father's birth certificate from Trinidad and Tobago; his father's death certificate; [redacted] NYS driver's license; and [redacted] W-2 tax records, medical bills, account statements from Vanguard, Macy's and Fidelity which prove his residency in the subject apartment for more than two years prior to his father's death on July 4, 2020.

On April 1, 2022, DHCR served the complainant's reply and documents on the owner. To date, the owner has not responded.

Having reviewed all submissions and the entire record, the Commissioner grants this PAR.

Given that the owner has conceded to granting succession rights upon receipt of proper documentation and given that the tenant has now provided said documents, the Commissioner finds that the PAR should be granted, and the owner is directed to offer [redacted] a renewal lease.

THEREFORE, in accordance with the Rent Stabilization Law and Code, it is

ORDERED, that the petition for administrative review be, and the same hereby is, granted.

ISSUED:
JUN 13 2022

WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF N EW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

X

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

Astoria Towers Housing Corporation,

ADMINISTRATIVE REVIEW
DOCKET NO. JX110039RO

RENT ADMINISTRATOR'S
DOCKET NO. IN110046RV

PETITIONER X TENANT: [redacted]

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named owner has filed an administrative appeal (PAR) of an order issued on October 20, 2021, by a Rent Administrator (RA), concerning the housing accommodations known as apartment [redacted] at 110-14 Astoria Boulevard, Queens, NY which determined that the tenant must be offered a renewal lease.

The tenant filed a lease violation complaint on February 20, 2020 alleging succession rights to the subject apartment and that the owner was refusing to offer a lease in her name. She claimed that she moved into the apartment on May 1, 2007 and that her mother, the tenant of record, vacated on November 1, 2009. The tenant submitted Con Edison invoices for the subject apartment in her name as well as rental payments from her to the owner.

The agency served the complaint on the owner, Assoc Sydney Engel at [redacted] and on the managing agent identified by the tenant, Astoria Towers at [redacted]. Neither party responded and the RA granted the tenant's complaint on default, directing Assoc Sydney Engel to offer the tenant a renewal lease in her name.

The attorney's cover letter accompanying the instant PAR says that she represents "Assoc Sydney Engel, [redacted], [redacted]." The PAR form itself meanwhile bears Astoria Towers Housing Corporation as the owner. The rider to the PAR, which

refers to "the Owner, Sydney Engel's Petition," states that Assoc Sydney Engel did not own the building when the tenant filed her complaint or when the RA issued his order, so that the "Complainant failed to make proper service" and the order "could not be applied to this owner." Attached to the PAR was a 1989 deed to the premises granted by the City of New York to Astoria and 110th Street Associates c/o Louis Engel & Co. of [redacted] An affidavit along with the deed was originally subscribed by one Sydney Engel, but that name was cancelled out and changed to [redacted] "general partner." The PAR also contains a cover page of an April 2021 warranty deed listing the grantor as Astoria & 110th Street Associates with an address at [redacted] to Astoria Towers Housing Development Fund Corp.

The PAR argues two points. First, it is argued that Assoc Sydney Engel is not the owner of the building and therefore proper service of process was not effectuated on the owner of the premises. Second, it is argued that the tenant of record is [redacted] pursuant to a lease dated March 1, 2011; that she vacated sometime around March 2019; that she did not formally surrender her keys; that she failed to recertify her tenancy pursuant to a HUD Regulatory Agreement; and that the complainant did not otherwise prove succession rights.

In answer to the PAR, the tenant states that the owner of record on file with DHCR at the time of the service of the complaint was Assoc Sydney Engel; that neither DHCR nor the tenant was informed of a change of ownership; that the Rent Stabilization Law requires such notice; that she has proven residency with her mother two years before her mother vacated the premises on November 1, 2009; that she has paid the rent since 2009; that attached are copies of relevant tax returns for 2007-2009 as proof of residency in the subject apartment; that her mother executed a lease for another apartment in Queens as of November 1, 2009; and that she has established succession rights.

The owner replies: "In light of the fact Petitioner [*sic*] failed to serve the necessary party, the agency does not have jurisdiction over the actual owners . . . * * * [T]he proceeding should . . . have been dismissed or required [*sic*] the [tenant] to reserve on the proper parties. The [owner] failed to answer . . . timely [because it] did not receive [the tenant's] complaint

. . . "When the [owner] first learned about the original complaint was only subsequent to the DHCR order granting [the tenant] relief based on a default. After discovery of this decision the [owner] requested an extension . . . and filed a PAR . . ." The owner also asserts that the agency must consider the status of the apartment in a tax credit building which would require additional documentation to support a claim of succession. The owner also asserts that the complainant did not prove the date that the tenant of record vacated the apartment.

The Commissioner denies the PAR.

The agency properly served the lease violation complaint on the owner that was on file with DHCR at the time the complaint was filed. Indeed, agency registration records for the subject building indicate that Assoc Sydney Engel of [redacted] has been the registered owner since 1991 and through 2021. Had there been a change of ownership, the owner is required to so notify the agency and register the correct entity. Moreover, examination of the RA file reveals that the mailing of service to Assoc Sydney Engel of [redacted] was not returned to the agency by the post office.

Given that the owner failed to answer the complaint following proper service of same, the Commissioner need not consider the owner's arguments raised for the first time on PAR. *See* Rent Stabilization Code §2529.6. Based on the record before the RA, the tenant established that she lived with her mother two years before her mother vacating the apartment and thus was entitled to succession rights. The Commissioner further notes that even if the new evidence submitted by both sides were to be considered on PAR, such evidence merely confirms the tenant's entitlement to succession.

The owner's assertion that permanent vacatur of the premises is unproven is without merit and the owner has provided no evidence concerning enhanced requirements for succession in a "tax credit building."

JX110039RO

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, that the petition be, and the same hereby is, denied.

ISSUED:

JUN 13 2022

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

_____X

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

[redacted],

ADMINISTRATIVE REVIEW
DOCKET NO.: KQ110002RT

RENT ADMINISTRATOR'S
DOCKET NO.: IN1100045RV

OWNER: YEUNG K. LO

PETITIONER _____X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The petitioner-tenant timely filed an administrative appeal ("PAR") against an Order issued on April 4, 2022, by the Rent Administrator ("RA") concerning the housing accommodation known as Apt [redacted] located at 41-36 Gleane Street, Flushing, NY, 11373.

On February 20, 2020, the tenant filed a lease violation complaint alleging the following: "Owner has failed to provide lease renewals with the correct RGB rent increase percentages"; that this "issue has persisted for many years"; and "attached is the current lease, previous leases, and initial lease."

On April 4, 2022, the RA issued an Order terminating the tenant's lease violation proceeding. The RA found that "the tenant's complaint filed under this proceeding does not address any lease violation issues"; that "the issue of rent increases will be resolved in the overcharge proceeding filed under Docket No. IO110003R; and that "therefore, it is ordered that this proceeding is terminated."

On PAR, the tenant argues that the RA's Order should be reversed because "my landlord continues to provide me with improper leases"; "I have attached the most recent lease which is not properly filled out and already signed by the landlord"; and that for these reasons "I wish for the lease violation issue to remain open."

Administrative Review Docket No. KQ110002RT

The Commissioner, having reviewed the record herein, finds that the petition should be denied.

Tenants in rent stabilized apartments may file a lease violation complaint if, amongst other things, an owner has not offered a renewal lease, has changed the terms and/or conditions of the lease, refuses to add a spouse to the lease, refuses to return a fully executed lease, or refuses succession rights. A review of the record before the RA indicates that the tenant has not stated any of the above lease violation issues.

The Commissioner notes that the RA correctly determined that the issues of alleged improper rent increases within the provided leases will be resolved in the tenant's current rent overcharge proceeding under Docket No. IO110003R. If the facts presented in that proceeding prove that the rents stated in the leases were incorrect, the RA will order an amendment of the leases on and after the base date as well as amendment of the rent registrations for the apartment. The overcharge unit of this agency is uniquely qualified to determine issues of the legal regulated rent and legal rent increases after the base date.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition be, and the same hereby is, denied, and that the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

JUN 15 2022

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK

DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF ADMINISTRATIVE APPEAL OF:

[redacted]

PETITIONER

----------X

ADMINISTRATIVE REVIEW
DOCKET NO: KP410026RT

RENT ADMINISTRATOR'S
DOCKET NO: KO410052RV

OWNER: Columbus 95th Street LLC

ORDER AND OPINION GRANTING PETITION FOR ADMINISTRATIVE REVIEW AND REMANDING PROCEEDING TO THE RENT ADMINISTRATOR

The above-named Petitioner-tenant filed a timely Petition for Administrative Review (PAR) of an Order issued by the Rent Administrator (RA) on April 11, 2022, concerning the housing accommodations known as 95 West 95th Street, apartment [redacted], New York, NY 10025. Said Order found that the complaint was withdrawn on March 25, 2022, and the proceeding was accordingly terminated.

On PAR, the tenant alleges that he did not withdraw his complaint; that the owner sent him a lease renewal in the name of his deceased mother after receiving evidence proving that he has succession rights to the subject apartment; and that the matter should be reviewed and determined on the merits.

Upon careful review of this matter, the Commissioner finds that this PAR must be granted, and the matter must be remanded to the RA for processing of the tenant's complaint on the merits.

A review of the record reveals that an attorney representing a completely different owner than the owner herein, submitted a letter stating that the parties had "resolved all of the issues raised in the above-referenced complaint of lease violation." The letter references RA's Order Docket Number KO410052RV, which is the proceeding at issue herein, but also references completely different premises and parties. The agreement in which a tenant "withdraws her complaint" concerns a

different proceeding and Docket Number than the one at issue herein, references different premises than those at issue herein, and is signed by parties who are not parties to the instant proceeding. The RA in the instant case was therefore in error to find that the tenant in the instant proceeding withdrew his complaint. Because the evidence of withdrawal of a tenant's complaint upon which the RA relied references, and concerns, a completely different proceeding from the instant proceeding (except for the erroneous captioning referenced above), and because there is no evidence of withdrawal of the complaint herein by the complainant herein, the RA's Order at issue, finding that the tenant in the instant case withdrew his complaint, is incorrect.

Because the tenant in the instant case did not in fact withdraw his complaint, the matter is remanded to the RA for a determination of the tenant's complaint on the merits.

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, that the tenant's PAR is granted, that RA's Order KO410052RV is revoked, and that the proceeding is remanded to the RA for a determination of the tenant's complaint on the merits.

ISSUED:
JUN 24 2022

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET NO.: KN410012R0
140 East 46th Street, LLC PETITIONER	RENT ADMINISTRATOR'S DOCKET NO: JU410060RV
----------X	TENANT: [redacted]

ORDER AND OPINION GRANTING PETITION FOR ADMINISTRATIVE REVIEW

The above-named owner filed a timely petition for administrative review (PAR) of an order issued on January 13. 2022 by the Rent Administrator (RA) concerning the housing accommodation in the premises known as apartment [redacted] at 140 East 46th Street, New York, NY 10017.

The Commissioner has reviewed all of the evidence in the record and has carefully considered that portion of the record relevant to the issues raised by this PAR.

On September 21, 2021, the tenant [redacted] filed a lease-violation complaint alleging that the owner refused to add his domestic partner to the lease. Attached is a copy of the domestic partnership which shows [redacted] and [redacted] being registered as Domestic Partners on May 6, 2019. The tenant made this request in writing to the owner on August 4, 2021 enclosing a copy of the Certificate of Domestic Partnership. The tenant also enclosed the latest lease commencing June 1, 2020 and expiring May 31, 2022.

On September 23, 2021, DHCR served the owner with a copy of the complaint and the owner did not respond within the requisite 20 days of service.

The RA issued the order under review on January 13, 2022, directing the owner to add [redacted] to the renewal lease.

On PAR, the owner claims to have interposed an answer to the complaint on October 13, 2021, a copy of which was annexed to the PAR; the answer stated that §2522.5(g)(1) of the Rent Stabilization Code (RSC) applies only to a spouse (husband and wife) and does not require a domestic partner to be added to a lease; that DHCR ruled this way in Matter of [redacted] PAR Docket Number SB410049RT (2004) which was upheld in Court and which has been followed

by similar cases; that the owner had properly offered the tenant the lease with only the tenant's name, which the tenant executed on April 10, 2020; that in September 2021, months after executing the lease with a rent for one tenant, the tenant filed a complaint to have his domestic partner added to the same lease with the rent for just one tenant; that it was never aware in the RA proceeding of any notice of default for not addressing the tenant's complaint; and that the tenant did not offer proof of primary residency of the domestic partner .

The tenant submitted opposition to the PAR which the Commissioner has reviewed

The Commissioner will grant the PAR.

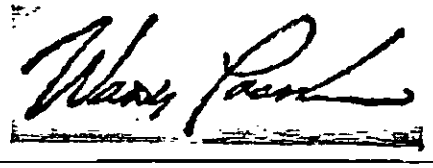
While there is no evidence that the owner answered the complaint, the Commissioner finds that no response was needed for the RA to decide this matter. The law is clear that domestic partners, unlike spouses, need not be added to the lease and the agency cannot compel such addition to the lease. This is in accord with prior DHCR decisions and court precedent as cited in the owner's PAR.

THEREFORE, in accordance with the relevant Rent Stabilization Law and Code, it is

ORDERED, that the petition for administrative review be, and the same hereby is, granted, and that the Rent Administrator's order be, and the same hereby is, revoked.

ISSUED:

JUN 24 2022



WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.