

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

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET NO.: KR210019RT
<div style="background-color: black; width: 250px; height: 20px;"></div>	RENT ADMINISTRATOR'S DOCKET NO: JO210037RV

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named tenants filed a petition for administrative review (PAR) of an order issued on May 25 2022 by the Rent Administrator (RA) concerning the housing accommodation in the premises known as apartment [REDACTED] 388 Bridge Street, Brooklyn, NY 11201.

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 March 16, 2021, the tenants filed a lease violation complaint stating that the owner offered a renewal lease, dated January 11, 2021, which did not include the wife's name ([REDACTED]) and that the utility allowance of \$72.00 was not deducted from the legal regulated rent (LRR) of \$622.00 per month

In answer, the owner submitted another renewal lease offer with the tenant [REDACTED] name added; but with the electric utility allowance not being deducted from the LRR.

Thereupon, the RA issued an order granting the tenants' complaint and directing the owner within 30 days to offer to the tenant a renewal lease for one or two years at the tenant's option, based on the record which shows that a prior order under Docket Number FW210043R [sic] established the LRR of \$634.44 per month and that said LRR must further be reduced by the electric utility allowance of \$84.00 in effect for 2021 and 2022. The RA also directed the owner not to increase the rent until the first rent payment occurring no less than 90 days after the date that a proper lease offer is made to the tenants. Additionally, the RA directed the owner to amend the yearly apartment registrations of 2019, 2020, 2021 and 2022 to reflect both names of

the tenants. Lastly, the RA directed the owner to issue a lease renewal on the same terms and conditions as were contained in the Vacancy Lease (including all Riders).

On PAR, the tenants made various requests to modify the order, citing both a prior lease violation order issued on August 23, 2016 under Docket Number EP210014RV and a non-compliance order of this agency stemming from the prior lease violation. The tenants request the addition of the term "Deep Rent Skewed Unit" to identify their apartment as was in the previous order; the removal of language that the owner may not increase the rent until the first rental payment occurring 90 days after the date of a proper lease offer; the addition of an order that the landlord may not increase the rent; the additional of the owner having to offer a lease at 0% for a one-year lease and 0% for a two-year lease; an order to refund overcharges paid from January 2020 to present; the owner be directed to include the term "Deep Rent Skewed Unit" to identify their apartment in the amended registrations; that a different address be used for the management company in the order; and that the owner be directed to offer a rent stabilized renewal lease with a rent stabilization rider.

The owner opposed the PAR and the tenant submitted replies, all of which have been considered by the Commissioner.

After considering all submissions and the record, the Commissioner denies this PAR.

The RA properly directed the owner to offer a renewal lease in accordance with the rent established in a prior rent overcharge case under docket number EW210043R, in which the RA decided the issues of the collectible rent being the LRR minus the electrical allowance. Said order was issued on July 27, 2018 and is a final agency determination. The RA therein found that the owner was liable for a total rent overcharge of \$422.80, including interest and treble damages, as of April 30, 2018; that the correct LRR is \$634.44 per month; and that the correct collectible monthly rent is \$577.44 for the renewal lease commencing on May 1, 2018.

The modifications requested by the tenants will not be granted.

While the prior lease violation complaint (EP210014RV) identifies the subject apartment as a Deep Rent Skewed Unit under NYC HFA agreement, such need not be repeated herein as it is not essential to the RA's determination. As noted above, the rent of the subject apartment has already been determined by the prior rent overcharge order in 2018 (EW210043R).

The directive that the owner may not increase the rent until the first rental payment occurring 90 days after the date of a proper lease offer is in accordance with language directly from the Rent Stabilization Code and need not be removed.

The proposed directive that the owner may not increase the rent will not be added as same is not a proper ruling for a lease violation matter. The directive to refund excess rent paid is also not required in a lease violation order. If, as the tenants suggest, they have been overcharged since January 2020, they may file a new rent overcharge complaint.

The proposed directive that the owner has to offer a renewal lease at a 0% increase is not proper as the facts did not support retroactivity to a prior guideline.

The proposed directive to add the term Deep Rent Skewed Unit to the registrations is outside the scope of this lease violation proceeding.

The proposal to add a different address for the management company is denied. The order conforms with the most recent address on file with DHCR. Also, the owner/managing agent are represented by counsel which was also served.

The proposed directive that the owner had to add a rent stabilized rider to the rent stabilized renewal lease offer is redundant.

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:

OCT 11 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

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 e-filing 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 e-filed 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.

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JAMAICA, NEW YORK 11433

.....X
IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO.: KP410028RT

RENT ADMINISTRATOR'S
DOCKET NO.: HT410045RV

PETITIONER

OWNER: MHK Associates, LLC

.....X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named tenant filed a timely petition for administrative review (PAR) against an order of the Rent Administrator (RA) issued on April 4, 2022 concerning the housing accommodation in the premises known as [REDACTED] at 409 West 48th Street, New York, NY 10036.

On August 15, 2019, the tenant filed a lease violation complaint alleging that the renewal lease to commence on May 1, 2019 was not offered on the same terms and conditions as the expiring lease. Specifically, the tenant argued that the owner was trying to introduce a higher legal regulated rent that was not specified in either of the two preceding renewal leases. The tenant asserted that he had filed a rent overcharge complaint in court on August 10, 2019.

In an answer to the complaint, the owner, amongst other things, asserted that it had mistakenly failed to put the higher legal regulated rent in the prior two renewals but, in 2017, had sent the tenant amended leases which the tenant refused to sign. The owner asserted that the issue of whether the owner could charge the higher legal regulated rent previously preserved in the tenant's vacancy lease would be decided by the court, and the tenant's failure to sign the timely renewal offer does not mean that the owner had to change the rent in the lease.

The RA terminated the proceeding and found that the tenant's complaint is based only on rent overcharge issues and a court proceeding is pending to resolve said issues.

On PAR, the tenant contends that the termination of the lease violation complaint was based on incorrect assumptions about the issues in the court proceeding. The tenant argues that, irrespective of the court proceeding, the owner failed to preserve its right to collect the higher legal regulated by omitting such amounts in the prior two renewal leases. The tenant argues that his overcharge proceeding has nothing to do with the owner's failure to preserve the higher legal regulated rent in the renewal leases and the tenant has not paid any rent increases since January 2019. The tenant, in short, asserts that he was entitled to a decision from DCHR on whether the higher rent stated in the 2019 renewal lease was in fact previously waived such that the tenant need not sign the lease with an incorrect rent amount.

The PAR is denied.

The rent overcharge proceeding was commenced in Supreme Court before the lease violation complaint was filed with DHCR. The Supreme Court will determine the amount of the legal regulated rent for the subject apartment. Indeed, the issue of the legal regulated rent on and after the applicable base date is intrinsically tied to a rent overcharge case. In the underlying lease violation complaint, the tenant raises the issue of whether the owner waived the legal regulated rent by only stating the alleged preferential rent in the renewal leases of 2017 and 2018. The tenant's contention that such issue has no bearing on the overcharge matter because he did not pay any increases is without merit. Again, the Court will determine the correct amount of the legal regulated rent, whether there was any waiver of same on or after the base date and based on rental payments whether there was any rent overcharge. Given that the essential issue raised by the tenant in this lease violation complaint is tied directly to the amount of the legal regulated rent, the RA properly terminated the proceeding in favor of the Court's jurisdiction over this issue.

As such, the Commissioner finds that the RA's order was in all respects correct when issued.

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

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

ISSUED:

OCT 25 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", is written over a horizontal line.

WOODY PASCAL
DEPUTY COMMISSIONER



State of New York
Division of Housing and Community Renewal
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JAMAICA, NEW YORK 11433

-----X
IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO.: KU410001RP

Tiffany Properties, LLC

RENT ADMINISTRATOR'S
DOCKET NO: JN410021RV

PETITIONER

TENANT: [REDACTED]

-----X
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 December 10, 2021 by the Rent Administrator (RA) concerning the housing accommodation in the premises known as apartment [REDACTED] at 203 East 22nd Street, New York, NY 10010.

The tenant commenced a lease violation complaint on or about February 12, 2021, alleging that the owner refused to offer her a renewal lease. The owner responded to the complaint that the subject apartment was not the tenant's primary residence.

The RA found that the owner failed to substantiate the allegation that the subject apartment was not the tenant's primary residence and directed the owner to offer a renewal lease.

On PAR, the owner asserted that it did not have to offer a renewal lease because it had commenced a Non-Primary Residence action against the tenant in Court; that proof of said action was attached to its answer to the complaint; that the tenant currently resides in California and has sub-leased the apartment; and that the agency did not consider the evidence submitted by the owner.

The tenant opposed the PAR, and the owner submitted a reply, both of which were reviewed by the Commissioner.

On March 29, 2022, the Commissioner, under Docket Number KM410002RO, denied the owner's PAR and affirmed the RA's order.

The owner commenced an article 78 proceeding to challenge the Commissioner's order in Supreme Court, New York County. By Decision and Order, dated August 4, 2022, the Court remitted the matter back to the agency for reconsideration and the issuance of a new order.

PAR Docket Number KU410001RP

On September 9, 2022, the agency served the tenant and owner's counsel with Notice of Proceeding to Reconsider under current Docket Number KU410001RP.

The Commissioner finds that the owner's PAR should be granted and the RA's order directing the offering of a renewal lease is revoked.

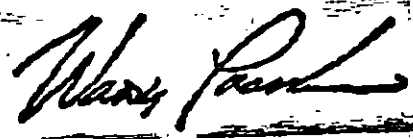
The RA failed to consider the Notice of Lease Non-Renewal based on non-primary residence and accompanying Affidavit of Service of same which was annexed to the owner's answer submitted in response to the tenant's lease violation complaint. The Commissioner likewise did not consider that the owner had timely submitted such evidence and improperly excluded same under the scope of review doctrine in his initial order.

Given that the owner commenced a court eviction proceeding against the tenant in January 2021, which was prior to the filing of the underlying lease violation complaint, the RA should not have directed the owner to offer a renewal lease. The Commissioner finds that the RA order is revoked and that there should be a conditional dismissal of the tenant's lease violation complaint. In the event, however, that the court proceeding for non-primary residence is decided in the tenant's favor, the owner would be required to offer the tenant a renewal lease for one or two years at the tenant's option.

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

ORDERED, that upon court remit, the owner's PAR be, and the same hereby is granted; and the RA's order is hereby revoked in accordance with this Order and Opinion.

ISSUED:
NOV 03 2022



WOODY PASCAL
Deputy Commissioner



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JAMAICA, NEW YORK 11433

-----X
IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO.: KT610029RT

████████████████████
PETITIONER

RENT ADMINISTRATOR'S
DOCKET NO: IN610054RV

OWNER: Help Woodycrest, LLC

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named tenant filed a timely petition for administrative review (PAR) of an order issued on August 19, 2022 by the Rent Administrator (RA) concerning the housing accommodation in the premises known as apartment █████, 984 Woodycrest Avenue, Bronx, NY 10452.

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 18, 2020, the tenant filed a lease violation complaint stating that the owner refused to offer her a renewal lease.

In answer, the owner submitted a fully executed copy of a renewal lease which was still in effect.

Based on the foregoing, the RA terminated the proceeding. The RA noted that the only issue in this proceeding was the offering of a renewal lease and that the issue of rent overcharge would be addressed in the rent overcharge complaint under Docket Number IN610044R which the tenant had already filed.

On PAR, the tenant contends that the RA erred because she was not given a hearing.

In answer, the owner asserts that the tenant has shown no error of law and/or fact in the RA's order.

In reply, the tenant claims to have been overcharged by the owner and submitted various

PAR Docket Number KT610029RT

documents in support of such claim.

Based on the record and all submissions, the Commissioner denies this PAR.

The RA correctly found that any claims of rent overcharge and the tenant's supporting documentation regarding such claims would be considered under Docket Number IN610044R, which is still pending. The sole issue in the underlying proceeding was the failure to provide a renewal lease which was in fact provided. The record before the RA in the lease violation proceeding did not warrant a hearing on any issues.

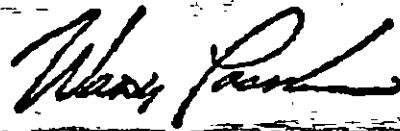
The RA order was correctly decided and there has been no error of fact or law demonstrated in the PAR.

THEREFORE, in accordance with the relevant sections of 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:

NOV 08 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

WOODY PASCAL
Deputy Commissioner



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**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

SJR: 16,636

ADMINISTRATIVE REVIEW
DOCKET NO.: KU210002RP

RENT ADMINISTRATOR'S
DOCKET NO.: FQ210094RV

OWNER: 1302 NEWKIRK LLC.

PETITIONER X

**ORDER AND OPINION, ON REMAND,
GRANTING THE TENANT'S PETITION FOR ADMINISTRATIVE REVIEW**

Procedural History

On May 25, 2017, the petitioner-tenant filed a complaint with the Rent Administrator (RA) concerning Apartment [REDACTED] at 1302 Newkirk Avenue Brooklyn, New York, alleging that the owner refused to offer her a renewal lease on the same terms and conditions as the expiring lease. The tenant submitted an unsigned renewal lease commencing June 1, 2017, based on a rent of \$1,998.26 rather than on the rent she previously paid, which was \$1,100.00 per month.

The RA, in an Order issued on January 31, 2018, determined that the tenant was aware that the rent amount that she was being charged on the vacancy lease was a preferential rent. However, because the tenant was being charged \$1,700.00 per month as of August 1, 2017, the RA directed the owner to provide the tenant with a renewal lease at a monthly rent of \$1,700.00 within twenty days of the issuance date of his Order.

The tenant then filed a petition for administrative review (PAR), which was processed under Docket Number GN210019RT. In said PAR, the tenant asserted that her 2013 vacancy lease listed only \$1,050.00 as the monthly rent, that said vacancy lease did not preserve a higher legal regulated rent, and that any rent increases should be calculated based on said \$1,050.00 per month rent. The tenant also denied receiving any RA-LR1 worksheet with her vacancy lease. Moreover, the tenant argued that the RA should not have considered the RA-LR1 worksheet because it was submitted by the owner as a single page of an eight-page document and the other seven pages were not submitted, and because it was not signed by the tenant. Finally, the tenant cited a Civil Court holdover case, Hillside Park 168 v Khan, which found that an RA-LR1 worksheet is for informational purposes and does not modify a lease.

The owner replied to the tenant's PAR, asserting that there was a Housing Court trial coming up in June of 2018, and a past decision establishing the preferential rent for the subject apartment at \$1,700.00 per month.

The Commissioner, on October 11, 2018, issued an Order denying the tenant's PAR under Docket Number GN210019RT, finding that the tenant executed a Preferential Rent Rider with her vacancy lease which put her on notice that the monthly rent charged in the amount of \$1,050.00 was a preferential rent; that the tenant was also served with a copy of the owner's answer which included "page 3 of 8" of an RA-LR1 worksheet which the owner stated was attached to the vacancy lease and which indicated that the previous rent was \$1,596.80 and that a 20% vacancy allowance brought the tenant's legal regulated rent to \$1,916.16 per month; that the tenant did not deny receipt of said RA-LR1 worksheet during the underlying proceeding; that the evidence supported the higher legal regulated rent claimed by the owner; that it was reasonable for the RA to conclude that the RA-LR1 worksheet was included in the tenant's lease along with the Preferential Rent Rider; and that the RA-LR1 worksheet need not be separately executed, and while it does not modify a lease, it does become part of the lease agreement and can separately state the legal regulated rent.

The tenant filed an Article 78 proceeding in Supreme Court, Kings County challenging Commissioner's Order GN210019RT. The Court then remanded the proceeding to this Agency for a new determination. The instant Order is the disposition of said remanded proceeding.

The Commissioner served the parties with a Notice of Proceeding to Reconsider Order on September 9, 2022, and on September 13, 2022.

Decision

The Commissioner, having reviewed the record, grants the tenant's PAR.

The Commissioner finds that the RA incorrectly determined that the legal regulated rent of the tenant's vacancy lease is \$1,700.00 per month.

The tenant's vacancy lease, dated June 11, 2013, stated only a monthly rent of \$1,050.00. Pursuant to Rent Stabilization Code (RSC) §2521.2 (b), to preserve a higher legal regulated rent when a lower preferential rent is charged "[S]uch legal regulated rent shall be set forth in the vacancy lease or renewal lease pursuant to which the preferential rent is charged." In this case, there was no purported higher legal regulated rent set forth in the tenant's vacancy lease. As such, the legal regulated rent under said vacancy lease is \$1,050.00 per month. Upon execution of the vacancy lease at issue, which lease set forth only a monthly rent of \$1,050.00, as explained above, any claims made by the owner that it has a right to a higher legal regulated rent based upon rents prior to the vacancy lease were waived. The Commissioner notes that, while there was a Preferential Rent Rider attached to the vacancy lease, said Rider did not contain a higher legal regulated rent (said Rider did not in fact set forth any rental amount) and therefore the lease could not have a rent higher than \$1,050.00 per month. The Commissioner also finds that the RA-LR1 worksheet, which the owner alleges was annexed to the vacancy lease, and which indicated that the previous rent was \$1,596.80 and that a 20% vacancy allowance brought the tenant's legal regulated rent to \$1,916.16 per month, was actually attached only to the first renewal lease (signed

on April 29, 2015) and was not attached to the 2013 vacancy lease.

The Commissioner finds that, the owner could not charge a rent based on a higher legal regulated rent in subsequent renewal leases as all subsequent rent increases had to be based on the legal regulated rent set forth in the vacancy lease.

Based upon the above, the RA's Order is modified to find that the legal regulated rent under the tenant's vacancy lease spanning June 1, 2013 to May 31, 2015 is \$1,050.00 per month, and that the legal regulated rent of the tenant's next lease renewal, from June 1, 2015 to May 31, 2017, is \$1,078.88 per month (\$1,050.00 + 2.75% pursuant to Rent Guideline Board Order (RGOB) #46). In light of the unusual and extraordinary circumstances herein, the Commissioner finds it appropriate to deem leases for the June 1, 2017 to May 31, 2019 and for the June 1, 2019 to May 31, 2021 lease periods. Accordingly, the legal regulated rent for the deemed lease term from June 1, 2017 to May 31, 2019 is \$1,100.46 per month (\$1,078.88 + 2% pursuant to RGOB #48). The legal regulated rent for the deemed lease term from June 1, 2019 to May 31, 2021 is \$1,127.97 per month (\$1,100.46 + 2.5% pursuant to RGOB guideline #50). Finally, the Owner is directed to offer the tenant a renewal lease commencing June 1, 2021 based upon the deemed May 31, 2021 legal regulated rent of \$1,127.97 per month.

Regarding the owner's allegation of a relevant Housing Court proceeding and/or decision, there is no evidence in the record to support or corroborate such allegation.

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

ORDERED, that the tenant's petition be, and the same hereby is, granted; and that the Rent Administrator's Order is modified as set forth herein.

ISSUED:

NOV 08 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", is written over a horizontal line.

Woody Pascal
Deputy Commissioner



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Note: If the Article 78 proceeding is commenced by e-filing 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@hcr.ny.gov. 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.: KU210018RT

██████████
PETITIONER

RENT ADMINISTRATOR'S
DOCKET NO: JN210033RV

OWNER: 285-291 LLC

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The petitioner filed a petition for administrative review (PAR) of an order issued on August 8, 2022 by the Rent Administrator (RA) concerning the housing accommodation in the premises known as apartment █████ at 285 Eastern Parkway, Brooklyn, NY.

On February 22, 2021, petitioner filed a lease violation complaint claiming that the owner refused to offer him a renewal lease and would not grant him succession rights to the subject apartment. He claimed that he moved into the subject apartment in 2014 and lived with his grandmother, the tenant of record, until she died on August 20, 2020.

On February 23, 2022, DHCR requested that the petitioner provide a copy of the death certificate, proof of relationship and proof of residency in the subject apartment for two years prior to August 20, 2020.

In March 2022, petitioner wrote to the agency that he did not receive the information request and only learned about it after speaking with a DHCR telephone operator when he called to inquire about his case.

The RA granted the petitioner an extension until April 28, 2022.

On April 22, 2022, petitioner provided his grandmother's death certificate, his birth certificate, an undated letter he wrote to the owner requesting a lease, a statement from █████ that she knows petitioner lived with his grandmother for over 15 years, a letter from the Department of Taxation to petitioner dated April 2019 at the subject apartment, and a food benefits' notice to petitioner at the subject apartment dated November 2019.

On April 28, 2022, the RA requested a copy of petitioner's driver's license, evidence that petitioner lived in the apartment in 2018, including 2018 income tax returns and W-2s, bank statements and utility bills.

On June 9, 2022, the owner answered the complaint by stating that the documents provided by petitioner on April 22nd do not satisfy his burden of proof for succession rights. The owner argued that Department of State records indicate that petitioner resided at [REDACTED] and that another death certificate of [REDACTED], his father, indicated that petitioner lived at [REDACTED] which directly contradicts his claim that lived with his grandmother for 15 years. The owner also produced documents from the Department of Motor Vehicles and a report of PPP benefits which indicate that the petitioner resided at [REDACTED] in the two years before his grandmother's death. The owner also produced affidavits of a pastor and a private investigator which state that petitioner did not reside with his grandmother in the two years before her death.

The owner's response was served on petitioner on June 17, 2022.

On July 6, 2022, petitioner stated that he discarded many documents following his grandmother's death; that there is a distinction between a mailing address and a residency; that [REDACTED] was his mother's address and is directly across the street from the subject premises; that given the close proximity of the two locations he did not feel compelled to change his mailing address to the subject apartment; that upon his father's death in 2014, he was using [REDACTED] as a mailing address only; that the birth and death certificates prove lineage; that enclosed were proof of rent payments in 2021; and that enclosed is a notarized letter from petitioner's sister stating that he lived with his grandmother for 15 years prior to her death.

The RA denied the complaint and terminated the proceeding based on the petitioner's failure to submit the documentation required to prove succession.

On PAR, petitioner submits a publication from Hillsdale College, dated April 2018, addressed to petitioner at the subject apartment. Petitioner states that he was attending the college virtually at that time. Petitioner reiterates that other important documents were discarded at the time of his grandmother's death. Petitioner further reiterates that the other two addresses mentioned by the owner were merely mailing addresses and not his residency. Petitioner also submits a document from NYCERS indicating that he was the beneficiary of his father's death benefit in 2014 as well as a letter from Mobilization of Justice to the owner's lawyer concerning attempted buyouts of tenants and harassment.

In opposition, the owner first asserts that the PAR is untimely. The owner points out that the PAR had to be filed on or before September 12, 2022, however, the Notary Public of petitioner's signature is dated September 13, 2022, 36 days after the RA's order was issued. The owner also points out that DHCR stamped the PAR as received on September 20, 2022. The

owner further asserts that the petitioner has not submitted sufficient documentation to prove succession rights and that the school mailing submitted on PAR does not satisfy his burden of proof.

In reply, petitioner states, amongst other things, that the PAR was timely mailed and that the evidence submitted supports the fact that he lived at the subject apartment for two years prior to his grandmother's death.

Based on the record and all submissions, the Commissioner denies this PAR.

As a first matter, the PAR is postmarked on September 12, 2022, which means that it was mailed on the 35th day after the RA order and is therefore timely. While the owner correctly points out that the petitioner's signature was notarized on September 13th, the Commissioner finds no other explanation than that such date must be in error given the mailing on September 12th.

The succession claim was properly denied because petitioner did not submit sufficient evidence that he resided with his grandmother in the subject apartment from August 20, 2018 through August 20, 2020. The information in the form of a driver's license, tax returns, W-2s, bank statements, utility bills, and official government communications to petitioner at the subject apartment was never provided. Notwithstanding that the other addresses ([REDACTED] and [REDACTED]) are in close proximity to the subject apartment and both allegedly only mailing addresses, the fact remains that petitioner did not submit the proof specifically requested by the RA to prove that he lived with his grandmother for two years prior to her death. The statements from his sister and [REDACTED] standing alone, are insufficient to prove residency with his grandmother for two years prior to her death. None of the documents submitted by petitioner cover the year 2018.

The Commissioner need not consider the school publication addressed to petitioner at the subject apartment in April 2018 because it was not submitted to the RA and is not part of the underlying administrative record on appeal. See Rent Stabilization Code §2529.6. However, even if considered, said document is outside of the relevant two-year time period and it is not the type of official record that would determine a residency address for purposes of succession, and it does not comport with the type of documents requested by the RA. The fact that the petitioner claims that certain records were disposed of after his grandmother's death is not a reasonable excuse for failing to produce the documents required under the Rent Stabilization Law and Code and specifically requested by the RA to prove succession. Moreover, all of the requested documents could be obtained from employers, utilities, the Department of Taxation, banks and other agencies. However, petitioner made no attempt to obtain such documents.

Finally, the letter concerning buyouts and alleged harassment is outside the scope of the issues presented herein.

PAR Docket Number KU210018RT

On this record, the petitioner is not entitled to a renewal lease.

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:

NOV 14 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", is written over a horizontal line.

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

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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.: KU110027RT

RENT ADMINISTRATOR'S
DOCKET NO: KQ110021RV

PETITIONER

OWNER: A & E Real Estate Mgmt, LLC

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The tenant timely refiled a petition for administrative review (PAR) of an order issued on August 18, 2022 by the Rent Administrator (RA) concerning the housing accommodation in the premises known as apartment [REDACTED] at 35-63 83rd Street, Flushing, New York 11372.

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 in this PAR.

In the order under review, the RA found that the tenant filed a lease violation complaint claiming that the owner refused to offer a renewal lease; that the owner responded that the tenant was provided with a proper renewal lease but did not return the signed lease; that the owner submitted to DHCR a copy of the renewal lease with proof of mailing; that DHCR served the tenant with the owner's response; that the evidence in the file indicates that the owner offered a renewal lease; that the tenant is directed to sign the lease and return it to the owner; that the proceeding is terminated; that lease violation is the only issue under consideration in this proceeding; and that if the owner has collected more than the legal rent, the tenant may file a rent overcharge complaint with DHCR.

On PAR, the tenant contends that she refused to sign the renewal lease because of errors in the lease; that the address is incorrect; that her correct address is apartment [REDACTED] 35-63 83rd Street, Jackson Heights, New York 11372; that the offered lease has "35-64 84th Street, Apt. [REDACTED] Jackson Heights, NY 11372"; that the amount of the security deposit is incorrect; and that the amount of the SCRIE is incorrect by \$0.50.

The owner opposed the PAR by stating that the tenant failed to state any error of fact or law; that the tenant timely received the lease renewal with the correct legal rent; and that to date, she has not signed the lease per the RA's directive.

PAR Docket Number KU110027RT

The tenant submitted a reply stating again that the address, security deposit and SCRIE amount on the renewal lease were incorrect.

The PAR is denied.

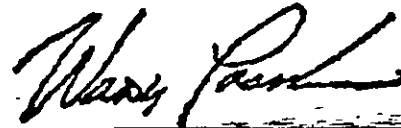
The record establishes that the owner offered a timely renewal lease, which the tenant admits receiving. The three issues raised by the tenant regarding the renewal lease do not warrant the failure to execute it and return it to the owner. Moreover, according to DHCR registrations, 35-63 83rd Street is also known as 35-64 84th Street and they are the same building. The security deposit is a private matter between the parties and may be resolved in a court of competent jurisdiction, but it is not an issue to be resolved in a lease violation complaint. Lastly, the purported \$0.50 discrepancy in the SCRIE rent amount may be addressed in a rent overcharge proceeding but it does not inhibit execution of the 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 denied; and the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

NOV 28 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

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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.:KT410030RT

RENT ADMINISTRATOR'S
DOCKET NO: KO410023RV

PETITIONER

OWNER: Amsterdam 140, LLC

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named tenant filed a timely petition for administrative review (PAR) of an order issued on July 29, 2022 by the Rent Administrator (RA) concerning the housing accommodation in the premises known as apartment [REDACTED] 500 West 140th Street, New York, NY10031.

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 the appealed order.

In the order under review, the RA found that on March 10, 2022, the tenant filed a lease violation complaint alleging that the owner failed to provide a signed copy of the renewal lease. In answer, the owner submitted a copy of the executed lease for the term from November 1, 2021 to October 31, 2022, which was served on the tenant. Based on the record, the RA determined that the tenant received the signed lease and directed the owner to furnish to the tenant a copy of the fully executed renewal lease, bearing the signatures of the owner and the tenant. Regarding the issue of the tenant being harassed by the owner, the RA advised the tenant to file a Tenant's Statement of Complaint(s) – Harassment, Form RA-60H.

On PAR, the tenant contends, amongst other things, that the owner and its agents lied to the agency and submitted fake documents; that the landlord did not send him the last 8 rent invoices; that the owner never returned the lease; and that the RA should not dismiss his case and should continue to probe the lies and harassment of the owner and its agents. The tenant also questioned the competency of the RA in issuing such order and restated that he was being harassed.

Based on the record and all submissions, the Commissioner denies this PAR.

The tenant has not raised any basis to modify or revoke the RA's determination. The sole

PAR Docket Number KT410030RT

issue in this lease violation case was whether the owner offered a current renewal lease, which the owner did. The tenant also executed the renewal lease for the period from November 1, 2021 to October 31, 2022. Accordingly, the order under review was in all respects correct when issued.

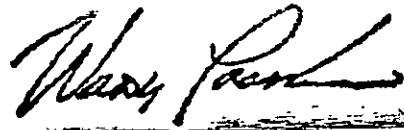
The tenant has not proven that any documentation submitted was falsified. If the owner has not returned the fully executed renewal lease as instructed by the RA, the tenant may file a non-compliance proceeding with the agency. Any harassment issues and services issues are not part of this proceeding. The RA may not order the owner to provide rent invoices in resolution of a lease violation complaint.

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 the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

DEC 21 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", is written over a horizontal line.

WOODY PASCAL
Deputy Commissioner



State of New York
Division of Housing and Community Renewal
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DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
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GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO.: KV410011RT

RENT ADMINISTRATOR'S
DOCKET NO: KO410107RV

PETITIONER

OWNER: 445 West 46th St., LLC

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named tenant filed a timely petition for administrative review (PAR) of an order issued on September 8, 2022 by the Rent Administrator (RA) concerning the housing accommodation in the premises known as apartment [REDACTED] at 445 West 46th Street, New York, NY.

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 the PAR.

On March 31, 2022, the tenant filed a lease violation complaint alleging that the owner failed to provide her with a signed copy of a renewal lease. She asserted that said lease was hand-delivered on April 24, 2022 and was countersigned by the owner, but that the owner did not date it. She claimed that the failure to date the lease has affected the timeliness of SCRIE benefits. She also questioned whether she had to pay an increased security deposit even though her collectible rent was frozen under SCRIE.

In answer to the complaint, the owner submitted a copy of a two-year renewal lease commencing February 1, 2022, which was signed and dated by the tenant and also signed by the owner. The owner stated that the tenant's SCRIE benefits have not been affected and that under DHCR Fact Sheet 9, a tenant receiving SCRIE still had to pay increases to the security deposit.

In reply, the tenant stated, amongst other things, that the renewal lease is not fully executed without being properly dated.

The RA granted the complaint and advised the tenant that the lease renewal is fully executed, bearing both the signatures of the tenant and the owner. The RA directed the owner to furnish the tenant with a fully executed copy of the lease and that failure to do so would result in

PAR Docket Number KV410011RT

denial of any rent guideline increases. The RA stated that this order concerned only lease violation and that any rent overcharge and service issues raised by the tenant must be addressed by filing those specific complaints with the agency.

On PAR, the tenant contends that the lease is not fully executed because the previous owner did not date his signature; that the lease did not correctly state the SCRIE monthly rent freeze; and that the owner has back-dated prior leases.

In answer, the new owner stated that she just bought the building a couple of month ago; that the lease was provided by the previous landlord; that she corrected the problem and updated the SCRIE payment, as indicated by the attached rent ledger; and a new lease with the reduced monthly rent was sent to the tenant.

In reply, the tenant reiterated her challenge against the amounts in the lease: namely, the addition to the security deposit, the amount of the SCRIE, and that the new lease should have these corrections and many others.

Based on the record and all submissions, the Commissioner denies this PAR.

The tenant has not pointed to any error of fact or law within the RA decision and has raised no basis to modify or revoke the RA's determination. Under Rent Stabilization Code § 2522.5(b)(2), a fully executed two-year renewal lease is in place from February 1, 2022 to January 31, 2024 for a reduced monthly rent of \$1,163.94 (one penny below the correct SCRIE amount). The failure to date the owner's signature does not invalidate the renewal lease and has apparently not affected the SCRIE. The SCRIE amount being one penny less is also insignificant and not detrimental to the tenant. Moreover, the new owner claims to have fixed any problems in the lease and is charging the tenant the correct SCRIE amount which is already based off of a reduced rent amount. The security deposit is correctly based on the amount of the legal regulated rent and the tenant has to pay increases in that annually.

If the tenant believes that the owner has not complied with the RA order in all respects, she may file a non-compliance proceeding with this agency. The Commissioner finds that the order under review pertains only to a lease violation complaint and that any alleged rent overcharges and service issues must be addressed in separate proceedings.

PAR Docket Number KV410011RT

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 the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

DEC 27 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

WOODY PASCAL
Deputy Commissioner



State of New York
Division of Housing and Community Renewal
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