

**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**

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**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: MR410016RO**

695 NICHOLAS REALTY CORP.,

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: LQ410027OR**

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**ORDER AND OPINION, GRANTING IN PART, PETITION FOR
ADMINISTRATIVE REVIEW**

On June 25, 2024, the above named petitioner-owner filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on June 12, 2024 (the "order"), concerning the housing accommodation known as 695 Saint Nicholas Avenue, Apartment [REDACTED] New York, New York, wherein the Rent Administrator granted the owner's rent restoration application and restored the legal regulated rent, effective November 9, 2023.

In the PAR, the owner, via their counsel, seeks a modification of the Rent Administrator's order asserting the effective date of the restoration order is incorrect and that the effective date of the restoration order should be May 1, 2023. The owner claims that it mailed the rent restoration application on May 1, 2023, the same date the owner provided notice to the tenant "that they may resume occupancy"; that DHCR failed to send the rent restoration application to the tenant until November 9, 2023; and that the owner properly filled out the application and provided documents to restore the rent as of May 1, 2023.

The tenant did not file a response to the owner's PAR.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be granted in part.

The Commissioner notes that pursuant to the New York City Rent Stabilization Code (“RSC”), where a hazardous condition causes a tenant to vacate their apartment, following a complaint of decreased services, the DHCR is empowered, pursuant to Section 2522.6 of the RSC, to issue an order reducing the tenant’s rent to a nominal amount until the landlord restores the premises to a habitable condition. Where such tenant was forced to vacate their apartment because it is legally uninhabitable, it is the Division’s policy to establish the rent at \$1.00 per month to maintain the landlord/tenant relationship between the parties until such time as the apartment is restored to habitability and the subject tenant is restored to occupancy or refused an offer to reoccupy the subject apartment.¹

DHCR’s policy and practice further dictates that, in general, if an owner restores a fire-related damaged apartment to habitability after a \$1.00 order has been issued, and the tenant advises that occupancy has resumed, the Rent Administrator may grant the owner’s rent restoration application, restoring the rent as of the date the apartment was restored to habitability and the tenant resumed occupancy of the apartment or the tenant declined to resume.

It is undisputed that the subject apartment was rendered uninhabitable as a result of a fire which occurred on July 26, 2022 at the subject premises, for which the Rent Administrator issued an order under Docket No. KT410011S on August 29, 2022, reducing the tenant’s rent to \$1.00 per month.

In the proceeding below, the owner via counsel, filed an application on May 5, 2023, which sought to restore the rent based on “all city agencies” having removed their vacate orders at the subject premises and all conditions restored to their prior condition. The owner in their application asserted that the tenant was “restored to occupancy as of” April 28, 2023 (*see* page 2 of the Owner’s Application to Restore Rent).

In support of their rent restoration application, the owner submitted, *inter alia*, correspondence dated May 1, 2023 addressed to the tenant at the subject premises wherein the tenant was advised that the apartment was “ready for occupancy”; a New York City Department of Buildings’ (“DOB”) Overview for Complaint #:1614859 which shows the complaint “RESOLVED” and the “Disposition” dated April 25, 2023 being the repairs to Apartment [REDACTED], the subject apartment, were completed and the partial vacate order #M94/2022 partially rescinded to allow occupancy of Apartment [REDACTED], which apartment is to be added to the list of units that can be occupied; correspondence dated April 28, 2023 from HPD addressed to the owner, advising the owner that the subject premises was found habitable and removed from Vacate Order #208126; a copy of an envelope addressed to the tenant at the subject apartment; numerous photographs purportedly depicting the subject premises showing an unoccupied apartment; and a copy of a United States Postal Service (“USPS”) Certified Mail Receipt and Return Receipt addressed to the tenant at the subject premises. The Commissioner notes that the copy of the USPS Certified Mail Receipt lacked a postmark and the USPS Return Receipt lacked USPS delivery information or a signature of the person receiving such delivery.

¹ The owner shall provide, with their rent restoration application, a copy of the notification to the tenant that they may resume occupancy of the subject apartment with the proof of mailing, or evidence that the tenant(s) surrendered their rights to the apartment. *See* DHCR Owner’s Application to Restore Rent, Form RTP-19.

Agency records indicate that the initial notice of the owner's application was mailed to the tenant on May 30, 2023. Subsequently, on November 9, 2023, the Rent Administrator mailed to the tenant a Request for Additional Information/Evidence ("RFAI"), wherein the Administrator requested responses to the following:

1. Have you resumed occupancy in the subject apartment? If so, when did you resume occupancy?
2. Have you resumed paying full rent? If so, when did you resume paying full rent?
3. If you have not resumed occupancy, state the reason for not returning to the apartment.
4. Provide documentation to support your answers.

On January 24, 2024, the Rent Administrator mailed the tenant a Final Notice, requesting a response to the owner's application. The record shows that on February 14, 2024, the tenant responded, without comment on the Answer to Notice and/or Application (Form RTP-3), and submitted a copy of DHCR's January 24, 2024 Final Notice, the November 9, 2023 RFAI, and a copy of the owner's rent restoration application.

According to the record, the Administrator reviewed the databases of HPD and the DOB and found no open Vacate Orders for the subject premises.

Based on the record, the Rent Administrator granted the owner's rent restoration application on June 12, 2024, finding that the conditions or violations upon which the order was issued were corrected (Fire Damage and/or Health Safety Condemnation), and established November 9, 2023 as the effective date of the order, the date the RFAI was sent to the tenant.

The Commissioner having reviewed the petitioner's appeal and any and all supporting documentation, any and all statements made by the affected parties, the underlying case file and all relevant Rent Regulatory Laws and Regulations finds that the owner's appeal has merit and should be granted in part.

Under the circumstances set forth above, the Commissioner finds that the owner's claim regarding the effective date of the Administrator's order has merit, warranting a modification of the effective date of the rent restoration as determined in the Rent Administrator's order.

Based on the evidence, the Commissioner finds that the November 9, 2023 rent restoration effective date established under Docket No. LQ410027OR be modified to reflect an effective date of May 30, 2023.

A review of the totality of the record before the Agency, including the Rent Administrator's file, indicates the owner's rent restoration application reported that the tenant was "restored to occupancy as of" April 28, 2023. However, the owner also included a letter to the tenant dated May 1, 2023, wherein the owner advised the tenant that their apartment was ready for occupancy, which the owner asserted was mailed to the tenant. The Commissioner notes that the underlying "Owner's Application to Restore Rent" Form RTP-19 instructed the

owner to submit with their application a copy of the owner's notification to the tenant of the availability of the restored apartment which "should be dated and proof of mailing should be provided." The evidence submitted by the owner as proof that the May 1, 2023 letter was mailed to the tenant on the same date is insufficient as the submitted Certified Mail Receipt did not contain a USPS postmark and the USPS Return Receipt did not contain USPS delivery information or a signature of the person receiving such delivery.

Accordingly, the Commissioner finds that the Rent Administrator's order Docket No. LQ410027OR is herein modified to the extent that the rent is restored to the level in effect prior to the rent reduction order plus any lawful increases which are collectible from the effective date of May 30, 2023, the date DHCR initially notified the tenant of the owner's rent restoration application.²

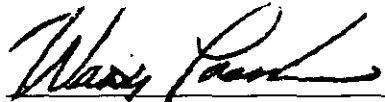
THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, that the petition is granted, in part, and the Rent Administrator's order is modified in accordance with this Order and Opinion, and the Rent Administrator's order is so otherwise herein affirmed, and further

ORDERED, any arrears due owner by the tenant as a result of this order shall be paid by the tenant to the owner in equal monthly installments over the course of the next eighteen months.

ISSUED:

OCT 04 2024



Woody Pascal
Deputy Commissioner

² The Commissioner notes that the tenant did not object to the owner's rent restoration application below or on appeal, nor responded to the Administrator's RFAI below with detailed information on when they resumed occupancy in the subject apartment.



State of New York
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Office of Rent Administration
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Right to Court Appeal

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There is no other method of appeal

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**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: MN430018RT**

[REDACTED]
& **[REDACTED]**

PETITIONERS

**RENT ADMINISTRATOR'S
DOCKET NO.: LO430063OR**

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On February 28, 2024, the above-named petitioner-tenants timely filed a Petition for Administrative Review (“PAR”) against an order the Rent Administrator issued on January 24, 2024 (the “Order”), concerning the housing accommodation known as 765 Riverside Drive, New York, NY (the “Premises”), wherein the Rent Administrator granted the owner’s application to restore rent and found that the elevator services had been restored.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the tenants request that the order be reversed and assert, in substance, that the Order was made in error because (1) there was a pending litigation on the issue of elevator coverage in NY Housing Court, Index No. LT-301280-21/NY, and (2) the facts in support of the owner’s claim of full compliance with the Court ordered schedule are insufficient.

The owner was offered an opportunity to respond by service of the PAR on March 8, 2024. On March 19, 2024, the owner responded, claiming, in substance, that (1) the PAR was untimely as it was filed over 35 days after the Order was issued,¹ (2) the Rent Administrator properly relied on the Agency’s inspection. A copy of the response was provided to the tenants

¹ The Commissioner notes that the PAR was postmarked February 28, 2024, which is timely.

on March 21, 2024. On April 15, 2024, the tenants replied, claiming, in substance, that (1) the PAR was timely as it was mailed on February 28, 2024 and within 35 days from the issuance of the Order, (2) the owners frequently change the elevator schedule and the tenants' affidavits show a history of failure to provide manned elevator service. A copy of the tenant s' reply was provided to the owner on April 24, 2024. On May 14, 2024, the owner reiterated that the Agency was entitled to rely on inspection results. A copy of this mailing was provided to the tenants on May 15, 2024.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Section 2523.4 of the Rent Stabilization Code ("RSC" or the "Code") and Section 2202.16 of the New York City Rent and Eviction Regulations ("RER" or the "Regulations"), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. In facilitating the resolution of the complaint, the Agency may request an inspection of the conditions the tenant complained of, and Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination. New York Courts have consistently upheld the reliability of Agency inspections.

In the proceeding below, under Docket No. LO430063OR, the owner filed an application to restore rent based on restoration of elevator operator service(s) on March 20, 2023.² In the application, the owner claimed that the owner had restored the elevator service in the subject premises and was "currently providing an elevator operator service six days per week (Monday through Saturday) from 8 AM to 2 AM with full coverage." The tenants were served with the notice of the owner's application (the "Initial Notice") on March 28, 2023. The Agency records indicate that in their responses, various tenants, including the Petitioners herein, asserted, in sum, that the elevator operator service was not being provided during the required hours³ and the elevator service had not been restored.

To facilitate the resolution of the owner's application, and to ascertain whether the elevator services were restored, the Rent Administrator requested an Agency inspection. The record reveals that a physical inspection of the premises was conducted by the Agency's impartial inspector on December 15, 2023.

² The underlying Rent Reduction Order, under Docket No. KS430009B, was issued on February 17, 2023. On Page 2 of the Order, the Rent Administrator noted that pursuant to a determination dated November 4, 1982 under Docket No. 42410-B, the owner is required to provide elevator operator services six days a week (Monday to Saturday) from 8:00 a.m. to 2:00 a.m. with full coverage (substitution when the schedule operator is away from their post).

³ On April 13, 2023, the tenant of Apartment [REDACTED] ([REDACTED]) claimed that the elevator was not fully covered from Monday through Saturday from 8 am to 2 am, and attached an affidavit stating that nobody was manning the elevator at 7:50 pm on February 5, 2023, and at 3:50 pm and 5:35 pm on February 6, 2023. And on April 18, 2023, the tenant of Apartment [REDACTED] ([REDACTED]) claimed that management of the building does not maintain 5 full-time staff "as required by Court Order and Stipulation" to provide the necessary coverage, and the tenant of Apartment [REDACTED] ([REDACTED]) claimed that "fully manned elevator coverage" was not being provided.

ADMINISTRATIVE REVIEW DOCKET NO. MN430018RT

Based on the inspector's report, the inspector found, at the time of the inspection, that the building has 2 elevators in operation – one automatic and one manned; that there was an elevator operation schedule posted (and provided a photo of the schedule), noting also that at the time of the inspection, the manned elevator was operated by one [REDACTED], a porter/elevator operator at the premises. The posted schedule contained names of the elevator operators and Monday through Sunday hours of elevator operators (8:00 a.m. to 2:00 a.m. on Monday to Saturday,⁴ and 4:00 p.m. to 11:00 p.m. on Sunday.)

On January 24, 2024, the Rent Administrator granted the owner a rent restoration, finding that the "elevator person" service was restored based on the Agency inspection. The Rent Administrator noted in the Order that the owner's Application for Modification of Services under Docket No. KR430009OD seeking permission to modify the manual elevator to fully automatic elevator, eliminating the elevator operator and installing security cameras within all the common areas, was granted on January 19, 2024.

The Commissioner notes that pursuant to the DHCR Policy Statement 90-2, where there is a dispute as to whether required services have been provided or are properly being maintained, the Rent Administrator may rely on the results of an Agency inspection. See Matter of 113-117 Realty, LLC v. DHCR, 199 AD3d 506 (1st Dept. 2021] *citing to* Matter of Sherman v. DHCR, 210 AD2d 486 [2nd Dept. 1994]. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as the inspector's impartiality in conducting the inspection was reasonable. The Commissioner further notes that any observable condition reported by the Agency's impartial inspector for which no alternative expertise is required may be properly relied upon by the Agency. In the instant case, the Agency inspector specifically observed and reported that the manned elevator was operated by an operator at the time of the inspection and an elevator operation schedule was posted.

Furthermore, the Commissioner notes that the Courts and the DHCR have concurrent jurisdiction to render determinations affecting the rents and services of tenants subject to the Rent Regulatory Laws and Regulations. In this case, the Rent Administrator properly made a determination for the owner's rent restoration application which was directly related to the rent reduction ordered by the Rent Administrator previously under Docket No. KS430009B on February 17, 2023.

In light of the above, the Commissioner finds that the Rent Administrator's order was proper and supported by a rational basis, namely the inspector's report dated December 15, 2023. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections, as well as the inspector's impartiality in conducting the inspection was reasonable and in accordance with the Code, the Regulations, and Policy Statement 90-2. The tenants' PAR has not established any error of law or fact warranting a modification or the revocation of the Administrator's order.

⁴ The hours required as indicated under Docket No. KS430009B, (pursuant to Docket No. 42410-B), were six days a week (Monday to Saturday) from 8:00 a.m. to 2:00 a.m.

ADMINISTRATIVE REVIEW DOCKET NO. MN430018RT


The tenants are advised to file a fresh services complaint, should the facts warrant. Also, the tenants are not precluded from seeking relief from a court of competent jurisdiction, if the facts so warrant.

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

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

ISSUED:

OCT 11 2024


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
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Right to Court Appeal

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**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: MV210002RO**

CLARK WILSON INC.

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: LX210034OR**

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

The above-named petitioner-owner filed a Petition for Administrative Review (“PAR”) against an order the Rent Administrator issued on August 15, 2024 (the “Order”), concerning the housing accommodation known as 60 Clarkson Avenue, Brooklyn, New York, wherein the Rent Administrator denied the owner’s application to restore rent, finding that the janitorial services building-wide were not restored at the time of the Agency inspection on July 10, 2024.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the owner requests that the Order be reversed, asserting that [REDACTED] is the only apartment in the building that is still on the order reducing rent and under Docket No. JS210015RO, “all of the apartment[s]” were removed by DHCR, and requests a “new order only for [REDACTED] so that [the owner] can file a new restoration for [REDACTED] only.”

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be dismissed.

A review of the record reveals that a building-wide rent reduction was granted on February 4, 2016 under Docket No. DU210001B for various tenants in the subject premises.¹ On October 13, 2023, the underlying rent reduction order, Docket No. DU210001B, was modified to reflect that the building-wide rent reduction order only applies to [REDACTED] and was so otherwise affirmed (*see* PAR Docket No. KT210001RP). Thereafter, the owner filed the instant rent restoration application on December 14, 2023, Docket No. LX210034OR, wherein all of the tenants from the unmodified underlying rent reduction order, Docket No. DU210001B, were

¹ [REDACTED]
[REDACTED]

ADMINISTRATIVE REVIEW DOCKET NO. MV210002RO

included in the application² and were served with the owner's rent restoration application.³ On August 15, 2024, the Rent Administrator issued the subject Order denying the owner's rent restoration request, providing copies of the subject Order to all of the tenants from the unmodified order reducing rent, Docket No. DU210001B.

The Commissioner notes that a review of the subject Order, Docket No. LX210034OR, reveals that on page 2 of the Order, the Rent Administrator noted that pursuant to Docket No. KT210001RP, the rent reduction ordered under Docket No. DU210001B was modified to limit the rent reduction to [REDACTED]

Moreover, in response to the owner's request for a correction of the "mistake," the Rent Administrator on August 26, 2024 responded to such request, advising the owner that, as all of the tenants were notified on the opening of Docket No. LX210034OR, all of the tenants had to be notified of the closing of the case. The Rent Administrator further advised the owner to file their next rent restoration application on paper and may file the application only for Apartment [REDACTED] with a statement that Docket No. JS210015RO⁴ limited the rent reduction only to Apartment [REDACTED]

Based on the foregoing, the Commissioner finds that the owner's PAR has not established any basis to modify or revoke the Rent Administrator's determination. The Rent Administrator noted in the subject Order, Docket No. LX210034OR, that the rent reduction is limited to Apartment [REDACTED]

Furthermore, Agency records reveal that the owner has yet to file a fresh rent restoration application although provided with instructions from the Rent Administrator. Accordingly, the Commissioner advises the owner to file a fresh rent restoration application, if the facts so warrant.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is ORDERED, that this petition is dismissed.

ISSUED:

OCT 11 2024

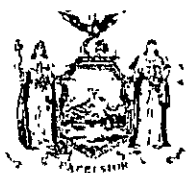


Woody Pascal
Deputy Commissioner

² The owner's rent restoration application was filed online.

³ [REDACTED]

⁴ The Deputy Commissioner under Docket No. JS210015RO modified a prior rent restoration order, Docket No. IO210016OR, to include a note that the order denying the rent restoration under Docket No. IO210016OR only applies to [REDACTED] and that the determination is without prejudice and is subject to any changes in any finds in *Sapp v. Clark Wilson, Inc.*, Index No. 12230/15 and any subsequent appeals to a higher court(s).



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

**ADMINISTRATIVE REVIEW
DOCKET NO.: MS410010RT**



PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: LT410100OR**

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

On July 9, 2024, the above-named petitioner-tenant timely filed a Petition for Administrative Review (“PAR”) against an order the Rent Administrator issued on June 7, 2024 (the “Order”), concerning the housing accommodation known as 220 W. 24th St., Apt. [REDACTED] New York, NY (the “Premises”), wherein the Rent Administrator granted the owner a rent restoration due to the tenant’s refusal to provide access for a scheduled agency inspection.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the tenant requests a reversal of the Rent Administrator’s order, averring, in essence, that (1) on May 2, 2024, the tenant and the Agency inspector agreed to “postpone and reschedule” the inspection until the inspector reviewed additional paperwork that included the Answer to Notice under Docket No. LT410100OR and the Application for a Rent Reduction, (2) despite a Docket Acknowledgement Notice under Docket No. MP410204S, the inspection was not rescheduled, (3) there are existing deteriorating conditions in the floor/covering of the living room at the Premises. The owner was offered an opportunity to respond by service of the PAR on July 17, 2024.

On August 2, 2024, the owner objected and claimed, in substance, that the Agency properly determined that the proof provided by the owner confirmed the restoration of services. A copy of the answer was served on the tenant on August 8, 2024.

On August 16, 2024, the tenant responded to the owner's answer, alleging, in substance, that (1) the work was not completed, and that the statements about its completion are false, (2) that the Agency's "promise of an inspection" falls under the principle of promissory estoppel, and (3) the owner's agent improperly accessed the Premises and took photos.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Section 2523.4 of the Rent Stabilization Code (RSC or the Code), DHCR is authorized to order rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required services. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. Section 2523.4(d)(2) states that the objection to a rent restoration application by a tenant who fails to provide access at the time arranged by the DHCR for the inspection will be denied. Additionally, Policy Statement 90-2 provides that "[i]f the tenant denies access for the DHCR inspection, then the rent will be restored." Policy Statement 90-2 allows the Rent Administrator to rely on an Agency's inspection report in determining if services at issue have been restored.

The Commissioner notes that in the initial proceeding, under Docket No. FT410243S, the Rent Administrator, on March 14, 2018, granted the tenant a rent reduction based on a finding of a decrease in service(s), indicating that the "floor/covering living room" services were not maintained.¹

Subsequently, on August 29, 2023, the owner filed an Application to Restore Rent, asserting that work was done to correct the condition of the living room floor/covering and that the floor/covering living room condition had been restored. The tenant was afforded an opportunity to respond by service of the complaint on October 2, 2023.

In the tenant's answer dated October 20, 2023, the tenant stated, in substance, that there "are multiple cracks, gaps and peelings of paint on a wall in the living room", that the peeling paint needed to be tested for lead, and that "covering living room" encompasses the maintenance of paint, plaster, and/or other covering in the living room.

The Rent Administrator, in accordance with DHCR procedure, requested an inspection of the Premises to facilitate the resolution of the complaint and to ascertain whether the condition had been restored as alleged in the Application to Restore Rent.

An Agency inspection was scheduled at the subject premises for May 2, 2024. The record indicates that when the inspector reported to the Premises in order to conduct the inspection on May 2, 2024, the tenant refused the inspection and stated to the inspector that there are other

¹ The order stated that the living room floor had loose parquet boards, as well as warping and gaps in certain areas.

items that are not listed on the inspection request and that the tenant would like to reschedule until all the items are listed and inspected together. The record shows that the tenant, as acknowledged, failed to provide access to the Premises to the Agency inspector on May 2, 2024, as scheduled.

As the tenant failed to provide access to the Agency inspector to perform the inspection, the Rent Administrator granted the owner's application on June 7, 2024, under Docket No. LT410100OR.²

At the outset, the Commissioner notes that where the records indicate that an inspector was unable to conduct an Agency's scheduled inspection either through a tenant's refusal or the lack of cooperation by the tenant, the Rent Administrator may properly grant the owner's application and restore the rent. The Agency's Notice of Inspection dated April 11, 2024 contains cautionary language, advising the tenant that a failure to provide access may result in a determination against the tenant's interests.

Based on the totality of the evidence in the record, the Commissioner finds that the tenant's petition is without merit as the record reveals that the tenant failed to provide access to the inspector on the scheduled inspection date on May 2, 2024.

The Commissioner notes, as indicated above, where an Agency inspection is truncated by the tenant's refusal, the Rent Administrator may properly grant the owner's Application to Restore Rent. The Commissioner therefore finds that the Rent Administrator conducted the underlying proceeding in accordance with established law, Agency practice and principles of due process, and that the Rent Administrator properly granted the owner's rent restoration request as the tenant refused to provide access at the time arranged by the Agency for the Agency inspection.

The Commissioner also finds the Petitioner's claim about the agreement with the inspector to "postpone and reschedule" the inspection on the date of the scheduled inspection is merely self-serving and unsubstantiated. The tenant was advised in their Notice of Inspection that the inspector was limited to inspect only those items listed on the inspection request, and that the inspector cannot add any additional items or accept any paperwork. Moreover, there is nothing in the record, including in the inspector's report, that indicates that the inspector "agreed to postpone and reschedule" the inspection until after the Agency or the inspector himself "had an opportunity to review additional papers submitted" by the tenant on April 12, 2024.

The Commissioner finds that based on the evidence of record, the Rent Administrator correctly granted the owner's rent restoration application pursuant to Section 2523.4 of the RSC and DHCR Policy Statement 90-2. The Commissioner finds that the tenant's claims herein are without merit. Accordingly, the Commissioner finds that the tenant's PAR has not established any errors of law or fact with the Rent Administrator's decision. Therefore, the Commissioner finds that the tenant's PAR must be denied, and the Rent Administrator's order affirmed.

² The Order noted that conditions that the tenant mentioned "in response" as in need of repairs are "not subject to this proceeding and therefore cannot be entertained herein" and that the tenant may file a new complaint for same, if warranted, using DHCR Form RA-81 for conditions inside of their apartment, or DHCR Form RA-84 for conditions in the common areas of the building.

ADMINISTRATIVE REVIEW DOCKET NO. MS410010RT

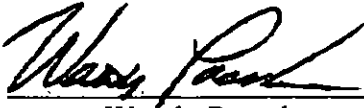
The Commissioner notes that the tenant's assertion regarding cracks, gaps and peeling paint on the wall, and that "covering living room" encompasses the maintenance of paint, plaster, and/or other covering in the living room is misplaced as the Rent Administrator's finding in the initial proceeding, Docket No. FT410243S, and thus, the related rent restoration proceeding, Docket No. LT410100OR, was limited to the living room floor condition.

The tenant is advised that they may file a fresh service complaint regarding any service deficiencies they may have, if the facts so warrant. The Commissioner notes that the tenant may also direct the issue of lead paint to the New York City Department of Housing Preservation and Development (HPD) and/or any municipal agency that has competent jurisdiction over such matter, if the facts so warrant.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED:

OCT 25 2024


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.her.ny.gov

Right to Court Appeal

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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.: MS610013RO**

3050 PERRY AVE BRONX LLC

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: LT610023OR**

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

On July 23, 2024, the above-named petitioner-owner timely filed a Petition for Administrative Review (“PAR”) against an order the Rent Administrator issued on June 28, 2024 (the “Order”), concerning the housing accommodation known as 3050 Perry Avenue, Bronx, New York (the “Premises”), wherein the Rent Administrator denied the owner’s application to restore rent, finding that elevator service had not been restored.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the owner seeks a reversal of the order, disputing the findings of the Agency inspection, claiming, in substance, that the inspector found “an entirely new condition” of elevator not being level, instead of checking whether the elevator was restored to “in service” status. The owner attached a letter, dated July 15, 2024, purporting to be from an elevator service company, stating that the company provides monthly service at the Premises and that the elevator landing accuracy was within acceptable limits. The tenants were offered an opportunity to respond by service of the PAR on July 25, 2024.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

ADMINISTRATIVE REVIEW DOCKET NO. MS610013RO

Pursuant to Section 2523.4 of the Rent Stabilization Code (RSC or the “Code”), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required services. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. Policy Statement 90-2 allows the Rent Administrator to rely on an Agency's inspection report in determining if services at issue have been restored. New York Courts have consistently upheld the reliability of Agency inspections. Furthermore, Section 2527.5(b) provides that the Agency may make investigations of the facts, determine if an inspection is necessary, and conduct an inspection(s) at any stage of a DHCR proceeding.

In the initial Rent Administrator's proceeding, the tenants filed a complaint on October 17, 2019, alleging that various building-wide services were not being maintained, including, in pertinent part, the elevator service. The Rent Administrator opened the proceeding, Docket No. HV610034B, to address possible emergency conditions of the elevator not working properly. On December 26, 2019, the Rent Administrator issued an order granting the tenants a rent reduction for the non-maintained elevator service. The Rent Administrator noted that the “[i]nspector found that the [e]levator was out of service at the time of inspection.”

Thereafter, the owner filed their first rent restoration application on January 3, 2020. On April 16, 2021, the Rent Administrator denied the owner's application to restore rent under Docket No. IM610005OR, finding that the elevator service was not restored as the elevator cab did not stop level on the floors, causing a hazardous condition.

The owner thereafter filed the instant Application to Restore Rent on August 9, 2023, alleging that the elevator service was restored. The owner asserted that “the elevator conditions at issue have been corrected and the elevator is in good working order.” The tenants were served with notice of the owner's application (the “Initial Notice”) on September 11, 2023. On March 15, 2024, one of the tenants responded, claiming that services were restored.

In order to ascertain the condition of the elevator service, the Rent Administrator requested an Agency's inspection of the subject elevator. The inspection of the elevator service was conducted on April 30, 2024. The inspection report shows that at the time of the said inspection, the building's elevator was not leveled on all floors, causing possible tripping hazards.

Based thereon, under Docket No. LT610023OR, the Rent Administrator issued an order denying the owner's rent restoration request, finding that the elevator service was not restored.

After a review of the underlying proceeding, the Commissioner finds that the owner has not presented any allegations of errors of fact or law against the Rent Administrator's determination to warrant the modification or reversal of the Administrator's order, which was based on the Agency's inspection conducted on April 30, 2024.

The inspection conducted at the premises revealed that the elevator was not stopping leveled on all floors, which contradicts the owner's claim that the elevator service was “restored”. The Commissioner notes that any observable condition reported by the Agency's impartial inspector for which no alternative expertise is required may be properly relied upon by the Agency, and, in

ADMINISTRATIVE REVIEW DOCKET NO. MS610013RO

the instant case, the non-restored elevator condition was discernable by visual inspection by the Agency's inspector. The Rent Administrator properly relied on the inspection report in accordance with DHCR Policy Statement 90-2. See Matter of 113-117 Realty, LLC v. DHCR, 199 AD3d 506 [1st Dept. 2021] citing to Matter of Sherman v. DHCR, 210 AD2d 486 [2nd Dept. 1994].

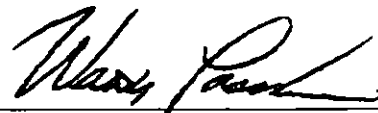
The Commissioner finds the owner's contention that the elevator leveling issue be deemed a new issue is without merit and self-serving. Pursuant to DHCR Policy Statement 90-2 and the Agency's longstanding policy, when the condition underlying the rent reduction has not been corrected in a workmanlike manner, the rent shall not be restored until *all such work* has been completed. Here, the underlying rent reduction order was for the lack of elevator service. As detailed in the Agency inspection report, the elevator service was not restored in a workmanlike manner as the elevator did not stop level on all floors, causing possible trip hazards. Accordingly, the Commissioner finds that the owner's claim is herein rejected.

Based on the foregoing, the Commissioner finds that the Rent Administrator properly relied on the record, including the Agency inspection conducted on April 30, 2024, when making the decision to deny the owner's rent restoration request. Accordingly, the owner's petition is denied.

Agency records indicate that the owner commenced a new rent restoration proceeding on August 2, 2024, which is pending under Docket No. MT610005OR.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED: **OCT 31 2024**



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
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.: MN110004RO**

102-30 67TH AVE GST LMO 2, LLC

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: LN110091OR**

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

On February 2, 2024, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") challenging LN110091OR, an order the Rent Administrator issued on January 2, 2024 (the "order"), concerning the housing accommodation known as 102-30 67th Avenue, Apartment [REDACTED], Flushing, New York, wherein the Rent Administrator denied the owner's rent restoration application predicated upon multiple Agency inspections which revealed that the kitchen cabinet was not fully restored at the time of such inspections.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the owner seeks a reversal of the order claiming that the order is erroneous, arbitrary, and capricious as the order was incorrectly based on a "new" condition that was not referenced in the rent reduction order. Specifically, the owner claims that the underlying rent reduction order found the left side base cabinet doors defective, but the rent reduction order found the "bottom right cabinet door" defective.

The tenant responded to the owner's petition opposing same and arguing that the condition has not been restored; that the owner was aware of the items that needed repair; that the owner had three opportunities to restore the services but failed to do so; and that the order is not based on new condition.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Section 2523.4 of the Rent Stabilization Code ("RSC" or the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction,

ADMINISTRATIVE REVIEW DOCKET NO. MN110004RO

upon application by a tenant where it is determined that required services have not been maintained. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. Furthermore, Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination. New York Courts have consistently upheld the reliability of Agency inspections.

On May 9, 2019, the tenant filed an application for a rent reduction based upon decreased apartment-wide services which the Rent Administrator granted on February 28, 2020 under Docket No. HQ110159S. Under Docket No. HQ110159S, the Rent Administrator found, in pertinent part, that the kitchen cabinets were not maintained, noting that there were unworkmanlike repairs to the kitchen cabinets; the wall cabinets appear newer than the base cabinets as they do not match in color and finish, and that the base cabinet doors on the left side were defective and did not stay closed.¹

Subsequently, on February 8, 2023, the owner commenced the underlying rent restoration proceeding herein, Docket No. LN110091OR, and asserted that the tenant was uncooperative with granting of access for repairs and provided two access letters sent by the owner to the tenant, in compliance with the Division's policy. The tenant was served with the owner's rent restoration application on February 27, 2023. By correspondence received by the DHCR on March 21, 2023, the tenant refuted the owner's claim that the tenant was refusing access.

The Rent Administrator determined the need for a "No Access" inspection in this case. A "No Access" inspection of the subject premises was conducted by the Agency's impartial inspector on November 10, 2023. At the time of the inspection on November 10, 2023; the inspector reported, in pertinent part, that the bottom cabinet door and top-drawer finishes were worn. The Administrator subsequently requested a follow-up inspection which was conducted on November 27, 2023. At the time of the follow-up inspection on November 27, 2023, the inspector found that the bottom cabinet door and top-drawer were replaced with used ones, and the bottom cabinet door did not close completely. Thereafter, another follow-up inspection was conducted on December 13, 2023, wherein the inspector reported that at the time of the inspection, the lower cabinet finish was in good condition and matched up with the other cabinets, however, the bottom right cabinet door did not close completely.

Thereafter, on January 2, 2024, based on the Agency inspections' findings, the Rent Administrator denied the owner's rent restoration application Docket No. LN110091OR.² The Rent Administrator found that the kitchen cabinets were not restored as the bottom right cabinet door did not close completely, however, noted that the lower cabinet finish was in good condition and matched up with the other cabinets.

The Commissioner notes the owner's contention that the finding of defective left side base cabinet door in the underlying rent reduction order is not consistent with the rent restoration

¹ The owner applied for rent restoration prior to the instant proceeding. Under Docket No. JU110042OR, which was upheld on appeal under Docket No. KR110008RO, the Rent Administrator found, in pertinent part, that the kitchen cabinets were not restored as the lower cabinet finish was worn.

² The Administrator also advised the tenant that they may file a new complaint regarding the unrelated service issues raised in their response to the owner's rent restoration application, using DHCR Form RA – 81.

ADMINISTRATIVE REVIEW DOCKET NO. MN110004RO

order which stated that it was the bottom right cabinet door that was defective. The Commissioner finds this owner's claim is merely self-serving, unpersuasive, and unavailing. Here, a review of the Agency records reveal that the underlying service condition for which a rent reduction was granted was for the kitchen cabinets, specifically, that there were unworkmanlike repairs to the kitchen cabinets; the wall cabinets appeared newer than the base cabinets as they did not match in color and finish, and also, the left side base cabinet doors were defective and did not stay closed. During the underlying rent restoration proceeding, the inspector, at the time of the first inspection, reported that the finish on the cabinets were worn. Thereafter, at the time of the second inspection, the inspector reported that the bottom cabinet and top drawers were replaced, however, the bottom cabinet door did not close properly. Then, at the time of the third inspection, the inspector reported that, again, the bottom right cabinet door did not close, however, the lower cabinet finish was in good condition and matched up with the other cabinets.

In light of the record, the Commissioner finds that the repair to the kitchen cabinets, and in particular, the right bottom cabinet door, was not workmanlike. As the November 27, 2023 inspection report noted, the cabinets were replaced, however, the bottom cabinet door did not close completely, and again, on December 13, 2023, the bottom cabinet right door again did not close completely. Accordingly, a rent restoration was not warranted for the kitchen cabinet condition as the repair was not completed in a workmanlike manner.³


Based on the foregoing, the Commissioner finds that the Rent Administrator's order is not erroneous, arbitrary, and capricious. The Commissioner further finds that the Rent Administrator correctly denied the owner's rent restoration application by predicating their decision on the inspection reports in accordance with the RSC, established principles and procedures, and the Division's Policy Statement 90-2. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections, as well as the inspector's impartiality in conducting the inspection and taking photographs depicting the kitchen cabinet condition was reasonable and in accordance with the Code and Policy Statement 90-2. Accordingly, the owner's PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The owner is advised to file a fresh "Owner's Application to Restore Rent," if the facts so warrant.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED:

NOV 08 2024


Woody Pascal
Deputy Commissioner

³ Pursuant to DHCR Policy Statement 90-2, when the condition for which a rent reduction was granted for has not been corrected in a workmanlike manner, the rent shall not be restored until *all such work* has been completed.



State of New York
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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**

**ADMINISTRATIVE REVIEW
DOCKET NO.: LT210021RO**

333 18TH STREET LLC

PETITIONER
-----X

**RENT ADMINISTRATOR'S
DOCKET NO.: KX210084OR**

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On August 22, 2023, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") challenging KX210084OR, an order the Rent Administrator issued on July 18, 2023 (the "order"), concerning the housing accommodation known as 333 18th Street, Apartment [REDACTED] Brooklyn, New York, wherein the Rent Administrator granted the owner's rent restoration application effective December 22, 2022.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the owner, through counsel, requests a modification of the Rent Administrator's order asserting that the order is arbitrary and capricious as it deviates from the DHCR precedent; that establishing the effective date of restoration as December 22, 2022 (the date the Petitioner-owner filed the rent restoration application) is improper.

The Petitioner argues that the rent should have been restored as of August 2, 2018, the date the Vacate Order was rescinded by the New York City Department of Buildings (DOB); and that lifting of the Vacate Order constitutes sufficient notice of habitability, citing to the Administrative Review Docket Nos. XI410031RT; FS210041RT; and LP420006RT.

ADMINISTRATIVE REVIEW DOCKET NO. LT210021RO

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Section 2522.6 of the Rent Stabilization Code ("RSC" or "the Code"), where a tenant was forced to vacate their apartment because it is legally uninhabitable, it is the Division's policy to establish the rent at \$1.00 per month to maintain the landlord/tenant relationship between the parties until such time as the apartment is restored to habitability and the subject tenant is restored to occupancy or refused an offer to reoccupy the subject apartment.

It is the general practice of the Agency to restore the rent for rent stabilized apartments effective the first day of the month following the date the tenant was served with the rent restoration application. However, DHCR's policy and practice further dictates that if an owner restores a fire-related damaged apartment to habitability after a \$1.00 order has been issued and the tenant advises that occupancy has resumed, the Rent Administrator may grant the owner's rent restoration application to the level in effect prior to the date of the fire, effective the date the tenant is restored to occupancy. On the contrary, the failure to file a timely rent restoration application may affect the effective date of the rent restoration.

In this case, according to the Agency's records, pursuant to Section 2522.6 of the RSC, the rent for the subject apartment was determined to be \$1.00 per month as of August 24, 2013, based upon a Vacate Order issued by the DOB, effective August 24, 2013 (see Docket No. BT210172S issued on September 12, 2013).

In the proceeding herein below, Docket No. KX210084OR, the owner filed an application to restore the rent on December 22, 2022, wherein the owner asserted that the apartment was restored to occupancy on April 3, 2018, and attached a letter from the DOB dated April 3, 2018 rescinding the Vacate Order #219/13. The owner also asserted that the tenant of the apartment in 2013 when the fire occurred surrendered possession of the apartment as of April 3, 2018. The current tenant was afforded an opportunity to respond by service of the rent restoration application (the "Initial Notice") on December 27, 2022.

Thereafter, based on the totality of the evidence, including the owner's submissions, the Rent Administrator, on July 18, 2023, granted the owner's rent restoration application finding that the conditions or violations upon which the order was issued reducing the rent (Fire Damage and/or Health Safety Condemnation) have been corrected and warrant a restoration of rent. The Administrator determined that the rent be restored to the level in effect prior to the rent reduction order, plus all lawful increases which are collectible from the effective date of the order, effective December 22, 2022, the date the owner filed the subject rent restoration application asserting that services were restored.

The Commissioner, having reviewed the record herein, finds that the owner's PAR is without merit and the owner has not presented any allegations of error of fact or law to warrant a modification of the Rent Administrator's order. While the owner on appeal disagrees with the December 22, 2022 effective date, the Commissioner in this case rejects the owner's claim that the effective date of the Rent Administrator's order must be modified to reflect an effective date over four (4) years prior to when the owner filed the subject rent restoration application. An

ADMINISTRATIVE REVIEW DOCKET NO. LT210021RO

owner is required to complete an application for rent restoration upon restoration of the apartment to a habitable condition and that a timely filing is essential for the tenant's rent to be restored as of the date of re-occupancy.

Here, the Commissioner notes that it is undisputed that effective August 24, 2013, a Vacate Order for the subject premises was issued by DOB; that under Docket No. BT210172S, issued on September 12, 2013, the rent was set at \$1.00 per month as of August 24, 2013, based upon the Vacate Order issued by the DOB effective August 24, 2013; that on April 3, 2018, DOB rescinded Vacate Order #219/13 and dismissed ("DOB FULLY RESCIND") the violation on August 2, 2018; and that the owner failed to file a rent restoration application until more than four (4) years later, on December 22, 2022.

The record below establishes that the Rent Administrator took into account the entire record and that after consideration, concluded that it would be inequitable to restore the rent back to August 2, 2018 as the owner requested, considering that the owner failed to file a rent restoration application until December 22, 2022, more than four (4) years after the owner claims the apartment became habitable. Under the circumstances in this case, the Rent Administrator properly determined that the effective date be December 22, 2022, the day the owner filed the subject rent restoration application asserting that services were restored.

The Commissioner finds that the tenant should not be made to bear the brunt of the owner's choice to not file a rent restoration application for more than four (4) years from the time that the owner claims the effective date should be (the date the Vacate Order was rescinded). This Agency has a duty to ensure that its decisions are not inconsistent with the spirit and intent of the rent laws. See Matter of 305 Realty NY LLC v. DHCR, Supreme Court of the State of New York, County of Kings, Index No. 5044/2010, wherein the Court found that although it may seem unfair to the owner that the tenant was able to occupy the apartment and continue to pay the reduced rent of \$1.00, "it would be just as unfair to raise the tenant's rent retroactively" because of the owner's failure to timely file the application for rent restoration. The Court found that, "here, equity does not weigh in petitioner[-owner]'s favor in that petitioner is requesting that the court remedy petitioner's error, not [the Agency's] mistake." Accordingly, the Commissioner finds that the owner's claim that the rent should be restored effective August 2, 2018, more than four years prior to the filing of the rent restoration application, is without merit and is merely self-serving.

As for the PAR Docket Numbers the owner cited, the Commissioner notes that the facts of the cases referenced above are distinguishable from the one under review, and as such not determinative of the facts herein. In those cases, the subject issue was not pertaining to the owner's protracted delay in filing their rent restoration application as in the instant case, as a result, this owner's contention in this regard lacks merit, and same is rejected by the Commissioner. See Docket Numbers KW110014RO² and XH410001RP.³

² A case where the owner's PAR requesting a modification of the rent restoration date was denied as the owner failed to promptly file its rent restoration application after the subject apartment was returned to habitability.

³ A case where the Commissioner granted the tenant's appeal on remand, modifying the effective date due to the owner's delay in filing their rent restoration application.

ADMINISTRATIVE REVIEW DOCKET NO. LT210021RO

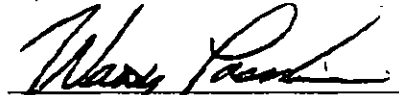
Based on the foregoing, the Commissioner finds that the Rent Administrator's order is correct as issued, and the effective date of December 22, 2022, the date the owner filed the rent restoration application asserting that services had been restored, is proper under the circumstances herein, and the owner's PAR has not established any basis to revoke or modify the Rent Administrator's determination.

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

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

ISSUED:

DEC 13 2024


Woody Pascal
Deputy Commissioner



State of New York
Division of Housing and Community Renewal
Office of Rent Administration
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