

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF KINGS : HOUSING PART R

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STATE RENAISSANCE LLC,

Petitioner (Landlord),

-against-

CHAD JOHNSON,

Respondent (Tenant).  
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Index No.  
L&T 074776/14

POST-HEARING  
DECISION AND ORDER

MARC FINKELSTEIN, J.:

Petitioner initiated this holdover proceeding against the rent stabilized respondent on the grounds that he was allegedly committing a nuisance in the premises and in the subject building and was “maliciously engaging in a course of conduct the primary purpose of which is intended to harass the owner and landlord and other tenants or occupants of the building by interfering substantially with their safety and comfort and by engaging in a course of conduct that is threatening, menacing and stalking.” The above quoted grounds in the termination notice were followed by a listing of the specific nuisance actions, dates and times; all having to do with verbally harassing, threatening, menacing and stalking respondent’s fellow tenants, building management and building employees.

On July 15, 2014 the parties entered into what is referred to as a conditional or probationary stipulation of settlement. The stipulation provided that without admitting any of the allegations, respondent consented to a final judgment of possession in favor of petitioner. Execution of the warrant was stayed through the end of the probationary period on December 31, 2015. During the probationary period respondent agreed not to commit any of the acts as alleged

in the notice of termination or create any nuisance. The stipulation further provided that if petitioner had cause to believe respondent was in default of this probation it could move to restore the proceeding for a hearing, "the sole issue to be whether Respondent is in breach of the terms of this agreement. If such a breach is found to exist, Landlord may execute the warrant of eviction upon service of a marshal's notice."

In accordance with the terms of the probationary stipulation, by motion dated October 20, 2014, petitioner moved to restore the proceeding for a hearing based upon respondent's breach of the stipulation in that he is alleged to be "continuing to engage in a course of conduct which is detrimental to the health and safety of other tenants, building management and building employees by harassing the tenants and building employees." Petitioner seeks to execute the warrant of eviction based upon respondent's alleged breach.

Accordingly the matter was transferred to this trial part for hearing. A full hearing was conducted on December 15, 2014 and January 12, 2015 as to respondent's alleged breach of the probationary stipulation. After due deliberation and consideration of the credible documentary and testimonial evidence adduced at said hearing, the court finds for the following reasons that respondent substantially breached and violated the July 15, 2014 stipulation and that the breach rises to such a level as to entitle petitioner to execute the warrant of eviction.

The issue at the hearing was the conduct and actions of respondent since the July 15, 2014 stipulation. Petitioner presented the testimony of both a fellow tenant on respondent's floor and the building doorman. The court finds their testimony to be credible, detailed and consistent.

The court believes the testimony of respondent's fellow tenant, a person of color, that when she went into the hallway to close the window because it was cold, respondent said to her that he was going to install a camera since "you and your Negro son have to be out of the hallway." The testimony indicated that after threatening to do so, respondent did install a camera on the outside of his apartment door to watch her in the hallway, with a sign saying he is videotaping. When she went into the hallway again to close the window he told her he was watching her on camera. She believed that the camera was real and functioning and focused on the hallway and believed him when he said he was watching her on camera.

The witness also testified that on another occasion respondent said to her "you Negroes should be out of the building." Also when she came home one evening and went into the elevator, he came out of his apartment and said, "People like you are not supposed to be riding elevators." She testified that as a result, she now takes the stairs to avoid the elevator and walking past respondent's apartment with the camera on the door that appears to her to be facing the hallway. The witness also testified that respondent made other racist remarks to her both before and after the July 2014 probationary stipulation.

The court also believes the testimony of the doorman that respondent said to him, "I'm going to hang your n\*\*\*\*r ass from a tree on Schermerhorn [Street]," along with saying that he had a gun in his apartment and would shoot him. The testimony indicated that this was followed the next night by the intoxicated respondent saying to the doorman in front of a tenant, "you f\*\*\*ing a\*\*hole. You f\*\*\*ing n\*\*\*\*r." At that time respondent grabbed repair request forms and ripped up 5 or 6 pages.

There was an incident when the city shut off the water. The testimony of the doorman indicated that respondent came downstairs and confronted him, acting irate and violent about the water being turned off. The doorman suggested he speak to DEP which had posted notices about the turn off which was not caused or initiated by the building. On another occasion, late at night, the witness testified that respondent came down to the lobby where there is a water fountain that was shut off and was merely a decoration and without permission started pouring buckets of water in it. The doorman testified that when he told respondent to leave the fountain alone, respondent turned it on saying, "I do whatever the f\*\*k I want in the building." The water overflowed and the doorman had to mop it up.

On another date the doorman testified that he saw and heard respondent pulling on the front door seven or eight times. It was around 1:00 a.m. The doorman was concerned the door would break off its hinges and told respondent he would have to pay for it. Thereafter, on the day before Thanksgiving, respondent came downstairs extremely intoxicated and started slamming the second door in front of the doorman. Respondent went upstairs and then came down again after 20-30 minutes and repeated this door pulling five times, saying he had a gun.

The doorman credibly testified that around the Christmas holidays the respondent came to him late at night, again extremely intoxicated, and insisted that he had a package in the cage that the doorman should open for him. The doorman indicated that he did not have the key and that the package was outside the cage for respondent to take. The testimony indicated that respondent screamed that it was a federal offense. The doorman called the police. The sergeant who wrote the police report which was admitted into evidence stated that respondent was intoxicated and irate at the scene and indicated that respondent abused alcohol. The doorman

indicated that the police saw respondent's package outside the cage and, in the end, respondent walked out of the building with his package which was indeed outside of the cage and ready for the taking.

The doorman testified that respondent threatens him constantly – virtually every day – and has threatened other employees, stating that he has a gun and has stated that he was going to live rent free. He also testified to his personal observance of a number of interactions since the stipulation between respondent and his fellow tenant who testified, including the incident when respondent told her “you're not allowed to use the elevator with me.”

In the face of the credible and consistent testimony of respondent's fellow tenant and the building doorman, respondent simply denied everything. He claims he never used racial epithets or slurs, did not make any threats involving a gun, did not rip up any complaint forms, never cursed at the doorman, never slammed the doors and loves his neighbors. He claims he has not had any interaction with his fellow tenant who testified since the July 2014 stipulation. While he claimed that the doorman harasses him, neither the videotape he presented nor any other documentation showed any harassment by the doorman.

As to the incident with the decorative, non-working fountain in the lobby, respondent asserts that he came down late at night volunteering to fix the fountain and although he poured in a bucket of water it never overflowed and the doorman never had to mop it up. The court does not credit the testimony as opposed to the credible testimony of the doorman.

As to the camera that he admittedly installed on the door, he asserts it was a fake camera that he put on his door not to spy on his fellow tenants in the hallway, but rather for security reasons, allegedly pointing the camera at his door knob to deter building staff who he claims had

entered his apartment surreptitiously. The court does not credit this testimony and in any case finds that respondent intimidated his fellow tenant into believing that she was videotaping her in the hallway.

As to the allegation of his slamming the building entrance doors he claims he was only taking pictures at 1:00 a.m. showing that the doors did not shut and lock making for a dangerous situation. Once again, the court does not credit this testimony and even if it did there are numerous other incidences warranting respondent's eviction.

The court finds respondent's wholesale denial of his actions, conduct and treatment of his fellow tenants and building staff, as testified by petitioner's two witnesses, as well as his explanation as to what occurred during the incidents cited, to not be credible. The court does not believe that the fellow tenant and doorman who testified were lying which is what respondent is essentially asserting by his own version of the events. While petitioner's witnesses were credible and had no reason to be making up the allegations as to respondent's breach of the stipulation, respondent presented no supporting testimony from anyone other than himself nor any documentary evidence to substantiate his version of events or any rebuttal of the witnesses' testimony.

A tenant being a racist, in and of itself, may not warrant eviction. A tenant often being inebriated, in and of itself, may also not warrant eviction. However, here, respondent's racist sentiments and inebriated state went much further. Since the July 2014 stipulation his racial animus and demeanor resulted in a continuous and consistent pattern of reprehensible words, confrontations, actions and conduct which did in fact threaten, harass, menace, stalk, and

intimidate other tenants and building staff and unacceptably interfered with their quiet enjoyment and the peaceful management of the building.

The court finds after hearing that respondent did seriously and substantially breach and violate the July 15, 2014 stipulation and that the breach rises to such a level as to entitle petitioner to execute the warrant of eviction. Accordingly, petitioner's motion to execute the warrant of eviction after service of a marshal's notice is granted. However, in order to afford respondent an opportunity to vacate in an orderly manner, execution of the warrant is stayed through April 15, 2015.

This constitutes the decision and order of the Court.

Dated: Brooklyn, New York  
March 4, 2015

  
MARC FINKELSTEIN  
JHC

**MARC FINKELSTEIN  
JUDGE, HOUSING COURT**