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| |  |  | | --- | --- | | CIVIL COURT OF THE CITY OF NEW YORK  COUNTY OF [COUNTY]: HOUSING PART A  ---------------------------------------------------------------X  [PETITIONER],  Petitioner - Tenant  -against-  The New York City Housing Authority  Respondents - Landlords    NEW YORK CITY DEPARTMENT OF HOUSING  PRESERVATION AND DEVELOPMENT,    Respondents - HPD.  ----------------------------------------------------------------X | Index No. HP /23  ORDER TO SHOW CAUSE  Premises:  [Premises]  [Borough], NY [Zip Code] |   UPON reading the Verified Petition, verified on the \_\_\_\_\_ day of [Month], 2023, and upon all the annexed papers, and good cause having been shown, it is  ORDERED, that the Respondents are directed to appear before this court and show cause at a Trial Term of the Housing Part of the Civil Court of the City of New York, County of [County], Housing Part \_\_ [Part H for Bronx, Part A for Kings, Part E for New York, C for Queens,], to be held at the Courthouse thereof, located at 141 Livingston Street, Room 904, Brooklyn / 1118 Grand Concourse, Room B129, Bronx / 111 Centre Street, Room 526, New York / 89-17 Sutphin Blvd., Room 405, Jamaica, New York, on the **\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 2021, at 9:30 AM**, or as soon thereafter as the parties may be heard, WHY an order should not be made and entered:   1. FINDING that the conditions described in Petitioner’s Verified Petition and the   annexed schedule attached as **Exhibit A** constitute violations, directing Respondents to correct said violations within the time provided by Section 27-2115(c) or granting such other and further relief as may be just.   1. enjoining Respondent from permitting said violations to exist and from permitting any future conditions to exist which endanger the life, health and safety of the Petitioners and their families; 2. [*If pleading harassment*] declaring that Respondents’ actions are harassment as defined under NYC Admin. Code § 27-2004(a)(48), declaring that Respondents’ conduct violates NYC Admin. Code § 27-2005(d), and enjoining Respondents and their agents from engaging in further harassment; 3. Granting Petitioner’s attorneys’ fees pursuant to R.P.L. § 234 and awarding reasonable costs and disbursements in an amount to be determined by the Court; and 4. Awarding such other relief as this Court deems just and proper.   ORDERED, that service of a copy of this Order, together with a copy of the papers upon which it is granted, upon each Respondent, by first-class Certified Mail with return receipt requested together with a copy of the papers upon which it is granted, upon the Respondents, on or before the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2023, be deemed sufficient service, these papers, together with proof of service thereof, may be returned on or before the return date of this proceeding.  Dated: [County], New York  \_\_\_\_\_\_\_\_\_\_\_\_\_, 2023  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  To: The New York City Housing Authority  90 Church Street, 11th Floor  New York, NY 10007    Department of Housing Preservation and Development  Housing Litigation Bureau  100 Gold Street  New York, NY 10038       |  |  | | --- | --- | | CIVIL COURT OF THE CITY OF NEW YORK  COUNTY OF [COUNTY]: HOUSING PART A  ---------------------------------------------------------------X  [PETITIONER],  Petitioner - Tenant  -against-  The New York City Housing Authority    Respondents - Landlords    NEW YORK CITY DEPARTMENT OF HOUSING  PRESERVATION AND DEVELOPMENT,    Respondents - HPD.  ----------------------------------------------------------------X | Index No. HP /23  VERIFIED PETITION  Premises:  [Premises]  [Borough], NY [Zip Code] | |
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The undersigned Petitioner, by her attorneys, [firm], respectfully allege the following:

1. Petitioner is the lawful occupant of the Class B multiple dwelling building located at [premises], (“the Premises”).
2. Petitioner has instituted this proceeding pursuant to the New York City Administrative Code (“NYC Admin. Code”) §§ 27-2005, 27-2115(h), 27-2115(i) and 27-2121; New York City Civil Court Act (“NYC CCA”) §§ 110(a)(4), 110(a)(7), 110(d), and 209(b)(2); and New York State Real Property Actions and Proceedings Law (“RPAPL”) § 211.
3. Petitioner seeks the correction of any and all violations and other conditions that are dangerous to life, health and safety existing at the Premises, including but not limited to, violations of the New York State Multiple Dwelling Law (“MDL”), the New York City Housing Maintenance Code (“HMC”), and Building Code.

**PARTIES**

1. Petitioner [tenant] is the tenant residing in [Apt.#] of the [premises] and has lived there for [length of tenancy].
2. The Respondent, The New York City Housing Authority ("NYCHA") is a body corporate and politic established by the New York State Legislature, as set forth in Section 401 of the N.Y. Public Housing Law. It is responsible for the administration, operation and maintenance of public housing projects within the City of New York. It maintains its principal place of business at 250 Broadway, New York, New York.
3. The Respondents listed in Paragraphs 5-6 shall hereinafter be collectively referred to as the “Respondents-Landlords.”
4. Co-Respondent THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT (“HPD”) is the city agency charged with, among other things, enforcement of the HMC and is located at 100 Gold Street, New York, New York, 10038. Co-Respondent HPD is a proper party to this proceeding pursuant to New York City Civil Court Act § 110(d).

**REGULATORY SCHEME**

1. Under the New York City Housing Maintenance Code, a tenant may petition the Court to order HPD to inspect and issue violations against a landlord-owner for conditions in violation of the Housing Maintenance Code. The HMC is found in Chapter 2 of Title 27 of the NYC Admin. Code.
2. A tenant may bring a Housing Part action seeking an order directing the landlord-owner to correct all violations found by the Court. NYC Admin. Code § 27-2115(h).
3. Respondents-Landlord(s) are obligated to keep the premises in good repair and to correct all violations of law. Upon the landlord-owner’s failure to correct the violations in the time required under the Housing Maintenance Code, the landlord-owner shall be subject to civil penalties. *Id.* at § 27-2115(a).
4. If violations are found to exist at the subject premises, the landlord-owner must correct the condition. The only defenses available to mitigate civil penalties are for the landlord-owner to prove: (1) that the violation was timely corrected and a notice of compliance was filed with HPD; (2) that the violation did not exist at the time the notice of violation was served; or, (3) that work to correct the violation was initiated timely but completion of the work was delayed by difficulties such as in obtaining the proper permit or license, or necessary funds, labor, or materials. *Id.* at § 27-2116(b).
5. With regards to the definition of harassment in the HMC as it pertains to the instant matter, § 27-2004(a)(48) defines harassment as:

[A]ny act or omission by or on behalf of an owner that (i) causes or is intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, and (ii) includes…the following acts or omissions, provided that there shall be a rebuttable presumption that such acts or omissions were intended to cause such person to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy[.][Such acts or omissions include] […]

b). repeated interruptions or discontinuances of essential services, or an interruption or discontinuance of an essential service for an extended duration or of such significance as to substantially impair the habitability of such dwelling unit;

b-1). an interruption or discontinuance of an essential service that (i) affects such dwelling unit and (ii) occurs in a building where repeated interruptions or discontinuances of essential services have occurred;

b-2). repeated failures to correct hazardous or immediately hazardous violations of this code or major or immediately hazardous violations of the New York city construction codes, relating to the dwelling unit or the common areas of the building containing such dwelling unit, within the time required for such corrections;

g). other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.

**FACTUAL ALLEGATIONS: (I) REPAIRS**

1. The Premises is a [*describe premises, e.g.* four story, 43-unit] building owned and managed by NYCHA located at [address]. Petitioner resides therein.
2. Petitioner has lived there for [*length of tenancy].* Petitioner lives there with *[include family members/roommates*, e.g her two minor children]. [*Be sure to include your client’s age. Add a sentence describing any disabilities affecting your client or a member of their household if they confirm that they are comfortable with you sharing this. Highlight sympathetic factors. Consider an additional sentence or two to provide color detail and humanize your client, e.g* Ms. Smith is a 72 year old disabled woman with limited mobility who relies upon the use of CPAP machine. She worked for the MTA for 40 years. She provides occasional childcare for her daughter but no longer feels comfortable having her two and three your old grandsons due to the deteriorating conditions in her apartment.]
3. There currently exist defects and/or open violations in Petitioner’s apartment that are dangerous to the health and safety of the tenant and which constitute violations of the Housing Maintenance Code and other laws that regulate housing standards. The conditions are in need of immediate repair.
4. Petitioner has amongst other conditions: [*list the bulk of the conditions, e.g.* mice; roaches; water-damaged floorboards; holes in walls; water leaks; water leak damage; damaged light fixtures; windows that are unable to close; improperly installed windows; improperly installed window guards; broken/defective paint and plaster on the walls; falling cabinets in kitchen; defective tiling in bathroom; and defective paint and plaster.] A comprehensive list of all conditions in the subject premises is annexed to this petition as a “Schedule A” **(Exhibit A**).
5. *Describe how the conditions have impacted your client’s ability to safely live in the apartment, e.g.* due to the chronic lack of heat during the winter months she relies upon a total of six (6) space heaters which have greatly inflated her electricity bill/ The defective front door has resulted in Ms. Smith and her family being locked both out and inside of the apartment multiple times, once requiring the intervention of the FDNY to break down the door on August 15, 2022 so that she could escape her home when the landlord and superintendent did not answer her calls.]
6. Petitioner has notified the Respondents and reported the above conditions. [*describe Petitioner’s efforts to* *put NYCHA on notice of conditions, e.g.* has filed 10 work tickets for the leak all of which management has ignored.].
7. Despite this, the conditions in the apartment remain uncorrected.

**[*if pleading harassment]* FACTUAL ALLEGATIONS: (II) HARASSMENT**

1. The repeated failure by Respondents-Landlords to correct conditions at the Premises greatly endangers the Petitioner’s health and safety. These acts of omission thereby constitute harassment, as defined under HMC § 27-2004(a)(48)(g). Respondents’-Landlords’ neglect of their duty to repair has substantially interfered with Petitioner’s ability to enjoy the quiet comfort and repose of the Apartment, and a continued failure to correct is intended to force Petitioner to move from her home.
2. Additionally, *describe harassment incidents with specific dates where possible* e.g.,: On multiple occasions Respondent’s agents have used abusive and threatening language against Petitioner. Respondent has entered or attempted to enter Petitioner’s apartment without her authorization on or around August 15, 2023. A sign stating that the Petitioner was late on her rent was posted on Petitioner’s front door in an attempt to belittle and humiliate her. See Exhibit A, “Photograph of Sign Posted by Respondent on June 10, 2022,.”
3. Thus, the Court should carefully evaluate the Petitioner’s claims of harassment.

**WHEREFORE,** Petitioner respectfully requests that the Court enter an order pursuant to the Housing Maintenance Code §§ 27-2005, 27-2115, 27-2121, and Civil Court Act § 203:

* 1. Finding that the conditions described in Petitioner’s Verified Petition and the open violations report from HPD constitute violations, and directing Respondents-Landlords to correct said violations within the time provided by § 27-2115(c) of the NYC Admin. Code;
  2. Enjoining Respondents from permitting said violations to exist and from permitting any future conditions to exist which endanger the life, health and safety of the Petitioner;
  3. [*If pleading harassment*] Declaring that Respondents’ actions are harassment as defined under NYC Admin. Code § 27-2004(a)(48), declaring that Respondents’ conduct violates NYC Admin. Code § 27-2005(d), and enjoining Respondents and their agents from engaging in further harassment;
  4. Granting Petitioner’s attorneys’ fees pursuant to R.P.L. § 234 and awarding reasonable costs and disbursements in an amount to be determined by the Court,
  5. Awarding such other relief as may be deemed just.

Dated: [Borough], New York \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023 [Attorney]

[Firm]

*Attorneys for Petitioner-Tenant*

[address]

[attorney’s phone]

[attorney’s email]

**VERIFICATION**

STATE OF NEW YORK )

COUNTY OF [COUNTY] ) s.s.:

[Petitioner], being duly sworn, deposes and says:

I am the Petitioner in this proceeding. I have read the foregoing Order to Show Cause and Petition and know the contents thereof. The information stated therein is true to my knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe the information to be true.

Dated: [Month] \_\_\_, 2023 Respectfully submitted,

[Borough], New York

[Petitioner]

Sworn to Before Me this

\_\_\_ Day of [Month], 2023.

NOTARY PUBLIC

[If client is an ESL speaker, include Affirmation/Affidavit of Translation here]

**Exhibit A**

**Schedule A: Petitioner’s Complaints as to Conditions**

* **Entire Apartment**
  + Mice
  + Roaches
  + Holes in Walls
  + Water Leak Damage
  + Improperly Installed Windows
  + Improperly Installed Window Guards
  + Defective Windows
  + Wall Paint is Peeling
  + Broken/Defective Paint and Plaster
  + Painting Required throughout Apartment
  + Broken Apartment Door Lock
* **Kitchen**
  + Falling Upper-Cabinets
  + Broken Lower-Cabinets
  + Water-Damaged Floorboards
  + Defective Window (Does Not Close)
  + Improperly Installed Window Guards
* **Hallway** 
  + Cracks in Ceiling
  + Leaks from Roof
  + Water-Damaged Ceiling
* **Living Room**
  + Defective Light Fixture
  + Water Leak Damage
  + Improperly Installed Windows
* **Bathroom**
  + Defective Tiling
  + Missing Tile
  + Holes in the Wall
* **First and Second Bedroom**
  + Defective Paint and Plaster
  + Water Leak Damage
  + Defective Windows
  + Improperly Installed Window Guards
  + Wall Bubbling and Retaining Moisture
  + Defective Light Fixture