

Western Division Housing Court ***Unofficial Reporter of Decisions***

Volume 43

Mar. 5, 2025 — Apr. 23, 2025
(and certain older decisions)

ABOUT

This is an unofficial reporter for decisions issued by the Western Division Housing Court. The editors collect the decisions on an ongoing basis for publication in sequentially numbered volumes. Currently, this unofficial reporter is known as the “Western Division Housing Court Reporter.” Inasmuch as the reader’s audience is familiar with this unofficial reporter, the reader is invited to cite from these decisions by using the abbreviated reporter name “W.Div.H.Ct.”

WHO WE ARE

This is a collaborative effort by and among several individuals representative of the Court, the local landlord bar, the local tenant bar, and government practice:

Hon. Jonathan Kane, First Justice, *Western Division Housing Court*

Hon. Robert Fields, Associate Justice, *Western Division Housing Court*

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Attorney Dulles serves as Editor-in-Chief, with Attorneys Manzanares and Vickery as co-editors for coordination and execution of this project.

OUR PROCESS

The Court sets aside copies of all its written decisions. Periodically, the editors collect and scan these decisions, employing commercial-grade “optical character recognition” software to create text-searchable PDF versions. On occasion, the editors also receive decisions directly from advocates to help ensure completeness. When sufficient material has been gathered to warrant publication, the editors compile the decisions, review the draft compilation with the Court for approval, and publish the new volume. Within each volume decisions are sorted chronologically. The primary index is chronological, and the secondary index is by judge. As of Volume 12, the stamped page numbers correspond to the PDF page numbers. The editors publish the volumes online and via an e-mail listserv. The Social Law Library receives a copy of each volume. Volumes are serially numbered and generally correspond to a stated time period. But, for several reasons, some volumes also include older decisions that had not been previously available.

EDITORIAL STANDARDS

In General. By default, decisions are *included* unless specific exclusion criteria are met.

Exclusion criteria are intentionally limited, and the editors have designed them to minimize any suggestion of bias for or against any particular litigant, type of litigant, attorney, firm, type of case, judge, witness, *etc.* In certain circumstances, redactions may be used in lieu of exclusions.

Exclusion by the Court. The Court intends to provide the editors with all of its decisions except those from impounded cases and those involving highly sensitive issues relating to minors—the latter being a determination made by the Court in its sole discretion. The Court does not provide decisions issued by the Clerk Magistrate or any Assistant Clerk-Magistrate. Additionally, the Court does not ordinarily provide decisions issued as endorsements onto the face of motion papers. The Court retains inherent authority to withhold other decisions without notice.

Redaction and Exclusion. The editors redact or exclude certain material. The editors make redaction and exclusion decisions by consensus, applying their best good faith judgment and taking the Court's views into consideration. Our current redaction and exclusion criteria are as follows: (1) Case management orders, scheduling orders, orders prepared by counsel, handwritten decisions including endorsements to a party's filing, and non-typed form orders will generally be excluded. (2) Terse orders and rulings will generally be excluded if they are sufficiently lacking in context or background information as to make them clearly unhelpful to a person who is not familiar with the specific case. (3) Orders detailing or discussing highly sensitive issues relating to minors, disabilities, highly specific personal financial information, and/or certain criminal activity will be redacted if reasonably possible, or excluded if not. As applied to orders involving guardians ad litem or the Tenancy Preservation Program, redaction or exclusion is not triggered by virtue of such references alone but rather by language revealing or fairly implying specific facts about a disability. (4) Non-public contact information for parties, attorneys, and third-parties are generally redacted. (5) Criminal action docket numbers are redacted. (6) File numbers for non-governmental records associated with a particular individual and likely to contain personal information are redacted.

The exclusion criteria and the review criteria will undoubtedly grow, change, and evolve over time. The prefatory text of each volume will reflect the most recent version of the criteria.

Final Review. Prior to publication of any given volume, the editors will submit the draft volume to the Court for a final review to ensure that it meets the editorial standards.

PUBLICATION

Volumes are published in PDF format at www.masshousingcourtreports.org. We also have a listserv for those who wish to receive new volumes by e-mail when they are released. Those wishing to join the listserv can do so at <https://groups.google.com/g/masshousingcourtreports>, or by emailing Aaron Dulles (dulles@jd11.law.harvard.edu).

Starting with Volume 12, an additional **high quality version** of each volume is also posted on our [website](#). These are not released via email because their file sizes are typically too large. High quality versions are marked as such on their title page (near the bottom left) and have their own digital signatures.

SECURITY

The editors use GPG technology to protect against altered copies of the PDF volumes. Alongside each volume is another file with Aaron Dulles's digital signature of authentication. Readers may authenticate each volume using freely available GPG software. In addition to the PDF volume and its accompanying signature file, the reader will need Aaron Dulles's "public key," which can be found by searching his name on keyserver.pgp.com. The key is associated with the e-mail address dulles@jd11.law.harvard.edu, and it has the following "fingerprint" identifier:

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CONTACT US

Comments, questions, and concerns may be raised to any person involved in this project. However, out of respect for the Court's time, please direct such communications at the first instance to either Aaron Dulles (dulles@jd11.law.harvard.edu), Raquel Manzanares (rmanzanares@cla-ma.org), or Peter Vickery (peter@petervickery.com).

ANNOUNCEMENT: CHANGE IN PROCEDURE

Since the inception of this project, the editors have relied on the clerk staff to make and set aside copies of decisions for them to review for potential publication. That practice has now ended. This is the final volume that uses Court-supplied material. The editors currently intend that, going forward, they will instead rely on readers to send them material for potential publication.

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COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-2224

DM PROPERTY, LLC,

Plaintiff,

v.

SAMARIS VELEZ,

Defendant.

ORDER


After hearing on February 27, 2025, on the tenant's motion for a stay on the use of the execution at which the landlord appeared through counsel and the tenant appeared self-represented, the following order shall enter:

1. Procedural History: This matter came before the court for trial on December 5 and 10, 2024, and the court issued an Order dated December 19, 2024. That Order, in accordance with G.L. c.239, s.8A, awarded the tenant damages on her claims for Warranty of Habitability, doubled them pursuant to G.L. c.93A, and then provided ten days after entry of the Order to deposit an amount of \$2,226.24 with the court to have judgment enter for her for possession. The tenant did not make any deposit with the court, judgment

entered for the landlord for possession and damages and an execution has now issued. The tenant comes before the court and is seeking a stay on the use off the execution.

2. **Discussion:** The tenant is not requesting an enlargement of time to make the payment ordered in the trial Order, nor is she offering to make any particular payment of any kind at the time of the hearing---as she does not have the funds. Instead, she is asking the court to allow her to pay off the outstanding damages at a monthly rate of \$50 and/or perhaps seek funds from the RAFT program.
3. The landlord's position is that they do not wish to accept a payment of the damages at that rate and have no faith that that the tenant will be able to make her monthly rent payment let alone the additional funds towards the damages.
4. The court finds that the tenant has not put the court in a position upon which it can require the landlord to accept the arrangement she is offering, nor does the court have any basis to believe she would be capable of complying with the offer she is making.
5. Accordingly, the motion is denied and there shall not be a stay on the use of the execution at this time.

So entered this 3 day of March, 2025.


Robert Fields, Associate Justice

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

**BERKSHIRE, SS
FRANKLIN, SS
HAMPDEN, SS
HAMPSHIRE, SS**

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Docket No. 24-SP-05028**

**Jonathan Long
PLAINTIFF**

*

*

*

v.

*

*

**William Turner
DEFENDANT**

*

*

**FINDINGS OF FACT, RULINGS OF LAW,
AND ORDER FOR JUDGMENT**

This is a summary process action in which the plaintiff seeks to recover possession of the premises from the defendant and damages for unpaid rent. The defendant appeared for trial and testified.

Based upon all the credible testimony and evidence presented at trial, and the reasonable inferences drawn therefrom, the Court finds as follows:

The defendant, William Turner, has resided at 273 East Street, Springfield, MA ("the premises") as a tenant under a written lease from August 2023 through July 2024, and as a tenant at will thereafter. The plaintiff, Jonathan Long, is the owner of the premises and is the defendant's landlord. The rent for the premises is **\$1,500.00** per month and is due on the third day of the month.

The plaintiff testified that the defendant has failed to pay him any rent for the months of December 2024 through February 2025, owes a balance of **\$1,250.00** for the month of November 2024, and currently owes him a total of **\$5,750.00** in unpaid rent. He testified that he needs to

occupy the premises himself.

The defendant testified that Wayfinders is in the process of approving him for the payment of **\$2,500.00** toward the arrears, so that he only owes the plaintiff **3,250.00** in unpaid rent.

The Court credits the parties' testimony on these issues, and finds that the defendant currently owes the plaintiff a total of **\$5,750.00** in unpaid rent.

The Court finds that, on June 12, 2024, the plaintiff served the defendant with a legally sufficient Thirty-Day Notice To Vacate For Possession.

The Court finds that the plaintiff has established his case for possession of the premises and damages for unpaid rent in the amount of **\$5,750.00**, plus costs.

ORDER FOR JUDGMENT

Based upon all the credible testimony and evidence presented at trial in light of the governing law, it is **ORDERED** that:

1. Judgment enter for the plaintiff for possession of the premises and damages for unpaid rent in the amount of **\$5,750.00**, plus costs.

2. Execution issue ten (10) days after the date that judgment enters, upon written request of the plaintiff.


ANNE KENNEY CHAPLIN
ASSOCIATE JUSTICE

Date: March 3, 2025

cc: Jonathan Long
William Turner

CR
COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0163

AMY MCPHERSON,

Plaintiff

v.

ALICIA ORTEGA,

Defendant

ORDER ON APPLICATION FOR
INJUNCTIVE RELIEF

This case came before the court on March 3, 2025 on an application for injunctive relief. Plaintiff ("Ms. McPherson") appeared and represented herself. Defendant ("Ms. Ortega") failed to appear. The property in question is located at 22 Lessey Street, #513, Amherst, Massachusetts (the "Premises").

Ms. McPherson testified that she recently allowed Ms. Ortega to reside with her temporarily and has now revoked her permission. Ms. Ortega refuses to vacate and is violating Ms. McPherson's lease by smoking on the premises. Ms. McPherson's landlord has taken steps to terminate Ms. McPherson's tenancy, and she is at risk of losing her apartment.

In considering a request for injunctive relief, the court evaluates in combination the moving party's claim of injury and chance of success on the merits. If the court is convinced that failure to issue the injunction would subject the moving party to a substantial risk of irreparable harm, the court must then balance this risk against any similar risk of irreparable harm which granting the injunction would create for the

opposing party. What matters as to each party is not the raw amount of irreparable harm the party might conceivably suffer, but rather the risk of such harm in light of the party's chance of success on the merits. Only where the balance between these risks cuts in favor of the moving party may a preliminary injunction properly issue. *See Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609, 617 (1980).


Here, Ms. McPherson has demonstrated a likelihood of success on the merits of her claim that Ms. Ortega is a licensee and that her license to occupy the Premises has been revoked. Ms. McPherson has demonstrated a risk of irreparable harm as the landlord has taken steps to terminate her tenancy based on the conduct of Ms. Ortega. Accordingly, Ms. McPherson is entitled to a preliminary injunction. It is ORDERED that:

1. Ms. Ortega shall vacate the Premises no later than Noon on March 7, 2025.
2. The legislative fee for injunctions is hereby waived.

SO ORDERED.

March 3, 2025

cc: Court Reporter



Jonathan J. Kane, First Justice

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

BERKSHIRE, SS
FRANKLIN, SS
HAMPDEN, SS
HAMPSHIRE, SS

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Docket No. 24-SP-03877

SHP Management Corp. as Lessor, and *
Pheasant Hill Village Apartments, *
as Owner *
PLAINTIFFS *

v. *

Terri Turner *
DEFENDANT *

**FINDINGS OF FACT, RULINGS OF LAW,
AND ORDER FOR JUDGMENT**

This is a summary process action in which the plaintiffs seek to recover possession of the premises from the defendant and damages for unpaid rent. The defendant appeared for trial and testified.

Based upon all the credible testimony and evidence presented at trial, and the reasonable inferences drawn therefrom, the Court finds as follows:

The defendant, Terri Turner, has resided at 109 Pheasant Hill Drive, Feeding Hills, MA ("the premises") as a tenant under a written subsidized lease since May 2010. The plaintiff SHP Management Corp. is the defendant's landlord, and the plaintiff Pheasant Hill Village Apartments is the owner of the premises. The contract rent for the premises is \$2,311.00 per month, the defendant's portion of the monthly rent is \$351.00 and is due on the first day of the month.

Zoraida Bellavista testified that she is the plaintiffs' property manager. She testified that

the defendant last had a zero rental balance in April 2024. She testified that, effective May 1, 2024, the defendant's portion of the monthly rent increased from **\$173.00** to **\$351.00**. She testified that the defendant's recertification was due to be completed by May 1, 2024, but it was not completed until May 13, 2024 because the defendant had not submitted the required income documentation. She testified that, since the inability to complete recertification in a timely manner was due to the defendant's failure to provide all required documentation, the applicable regulations do not require the plaintiffs to give the defendant 30 days' notice of the new rental amount, and that the new rental amount went into effect on May 1, 2024. She testified that the defendant has not paid the plaintiffs any rent for the month of May 2024. The Court credits this testimony.

The defendant testified that she did not pay her rent for May 2024 because she did not receive 30 days' notice of the rent increase. The Court credit this testimony.

The Court finds that the plaintiffs properly adjusted the defendant's rent effective May 1, 2024.

The Court finds that the plaintiffs' Rent Ledger, submitted on February 11, 2025, shows that the defendant did not pay the plaintiffs any rent for the month of May 2024 and owes a balance of **\$178.00** for the month of June 2024, a total of **\$529.00** in unpaid rent.

The Court finds that, on July 16, 2024, the plaintiffs served the defendant with a legally sufficient 30 Day Notice To Quit.

The Court finds that the plaintiffs have established their case for possession of the premises and damages for unpaid rent in the amount of **\$529.00**, plus costs.


ORDER FOR JUDGMENT

Based upon all the credible testimony and evidence presented at trial in light of the governing law, it is **ORDERED** that:

1. Judgment enter for the plaintiffs for possession of the premises and damages for

unpaid rent in the amount of \$529.00, plus costs.

2. Execution issue ten (10) days after the date that judgment enters, upon written request of the plaintiffs.


ANNE KENNEY CHAPLIN
ASSOCIATE JUSTICE

Date: March 3, 2025

cc: Kevin Oakes, Esq.
Terri Turner

BERKSHIRE, SS
FRANKLIN, SS
HAMPDEN, SS
HAMPSHIRE, SS

Muhammad Massum Taqi *
PLAINTIFF *

v. *

Gixsy Marie Lau *
DEFENDANT *

This is a summary process action in which the plaintiff seeks to recover possession of the premises from the defendant and damages for unpaid rent. The defendant appeared for trial and testified.

Based upon all the credible testimony and evidence presented at trial, and the reasonable inferences drawn therefrom, the Court finds as follows:

The defendant, Gixsy Marie Lau, has resided at 77B Fairview Avenue, West Springfield, MA (“the premises”) as a tenant under a written lease from December 31, 2019 through 2023, and as a tenant at will thereafter. The plaintiff, Muhammed Massum Taqi, is the owner of the premises and is the defendant’s landlord. The rent for the premises is **\$1,000.00** per month and is due on the first day of the month. The defendant has failed to pay the plaintiff any rent for the months of October 2024 through February 2025, and currently owes the plaintiff a total of **\$5,000.00** in unpaid rent.

The Court finds that, on October 30, 2024, the plaintiff served the defendant with a

legally sufficient 30 Day Notice To Vacate.

The defendant testified that she has **\$2,000.00** to pay the plaintiff toward the arrears, and that she can get **\$3,000.00** from Wayfinders to pay the balance. She testified that the plaintiff will not accept the funds from Wayfinders. The Court credits this testimony.

At trial, the plaintiff, through counsel, represented that, before it will pay any rental arrears, Wayfinders requires that a landlord agree that the tenant can remain in possession of the premises, and that the plaintiff just wants possession of the premises. The Court credits these representations.

The Court finds that the plaintiff has established his case for possession of the premises and damages for unpaid rent in the amount of **\$5,000.00**, plus costs.

ORDER FOR JUDGMENT

Based upon all the credible testimony and evidence presented at trial in light of the governing law, it is **ORDERED** that:

1. Judgment enter for the plaintiff for possession of the premises and damages for unpaid rent in the amount of **\$5,000.00**, plus costs.
2. Execution issue ten (10) days after the date that judgment enters, upon written request of the plaintiff.


ANNE KENNEY CHAPLIN
ASSOCIATE JUSTICE

Date: March 3, 2025

cc: Richard L. Herbert, Esq.
Gixsy Marie Lau

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

FRANKLIN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4895

FEDERAL MANAGEMENT COMPANY, INC.,

Plaintiff

v.

JANET RISATTI AND JESSICA MARTIN,

Defendants

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR ENTRY
OF JUDGMENT

This summary process case came before the court on January 24, 2025 for a bench trial. Plaintiff (the landlord) appeared through counsel. Defendants (the tenants) appeared self-represented. Plaintiff seeks to recover possession of residential premises located at 419 East River Street, Apt. 905, Orange, Massachusetts (the “Premises”) from Defendants based on nonpayment of rent. Defendants did not file an answer but were allowed to raised defenses at trial.

Based on the credible testimony and the other evidence presented at trial, the reasonable inferences drawn therefrom and the pretrial stipulations, the court finds as follows:

After considering the testimony of Deputy Sheriff Randy Plante, the Court finds that the notice to quit was left at the entry door of the Premises on October 15, 2024 and mailed to Defendants by U.S. mail. Defendants claim that they did not receive the notice, suggesting that someone must have removed the notice from their door and that their mail was not being delivered properly from early October to mid-

November 2024.¹ The court finds their testimony to lack credibility. Accordingly, the court concludes that Plaintiff has demonstrated by a preponderance of the evidence that the notice to quit was properly served and received.

Monthly rent is \$1,160.00.² Based on the business records of Plaintiff, which were introduced through the property manager, the Court finds that the balance of unpaid rent is \$4,720.00. Defendants contend that they made certain payments for which they were not given credit and that they offered to make payments that were rejected by management. They provided no credible evidence to support their contentions.

Accordingly, based on the foregoing, and in light of the governing law, the following order shall enter:

1. Judgment shall enter in favor of Plaintiff for possession and damages in the amount of \$4,720.00, plus court costs.
2. Execution shall issue by written application after expiration of the ten-day appeal period.

SO ORDERED.
March 4, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

¹ Defendant Martin conceded that she received “junk” mail during this time.

² Plaintiff purported to increase the rent to \$1,377.00 per month effective January 2025. Defendants did not pay this increased amount nor agreed to it. For purposes of this trial, the court considers monthly rent to be \$1,160.00.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24 CV-1057

EDWIN ROSARIO,

Plaintiff

v.

EXECUTIVE OFFICE OF HOUSING & LIVABLE
COMMUNITIES,

Defendant

ORDER

This case came before the court on January 23, 2025 for a hearing in the nature of an administrative appeal under G.L. c. 30A. The case was transferred from Superior Court. Plaintiff appeared self-represented. Defendant Executive Office of Housing & Livable Communities (EOHLC) appeared through counsel. Plaintiff challenges the denial of his application of Emergency Assistance (EA) shelter benefits.

Pursuant to G.L. c. 30A, § 14, the court may modify or set aside an agency's determination if there was a violation of constitutional provisions or if the decision was in excess of statutory authority, based on an error of law, made upon an unlawful procedure or unsupported by substantial evidence or otherwise unwarranted on the record. The court may also allow the appeal if the agency's action was arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.

The October 10, 2024 decision of the EOHLC hearing specialist is thorough and well-reasoned. It is clear from a review of the record that Plaintiff did not present evidence of a housing situation that would make his household eligible for EA shelter

benefits at the time of his application.¹ The court finds no basis under c. 30A, § 14 to modify or set aside the agency's decision.²

For the foregoing reasons, Plaintiff's appeal of the EOHLC decision denying EA shelter benefits is DENIED.

SO ORDERED.

March 4, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

¹ He is not precluded from reapplying for benefits based on changed circumstances.

² To the extent Plaintiff seeks any relief regarding the eviction case in docket number 23SP2898, he must bring a motion in that case.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

FRANKLIN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-3851

STEVEN GELMAN,

Plaintiff

v.

OLEOLA NEWCOMBE,

Defendant

ORDER ON MOTION FOR
USE AND OCCUPANCY
PAYMENTS

This summary process case came before the court on January 24, 2025 on plaintiff's motion for use and occupancy payments pending appeal.¹ Both parties appeared self-represented. The residential premises in question are located at 32 Center Drive, #2, Orange, Massachusetts (the "Premises").

The court allowed Defendant's motion to waive the appeal bond on January 3, 2025. Pursuant to G.L. c. 239, § 5(e), even where an appeal bond has been waived, the court shall order the occupant to "pay in installments as the same becomes due, pending appeal, all or any portion of any rent which shall become due after the date of the waiver." At the time of the hearing on January 3, 2025, Defendant argued that she should not have to pay use and occupancy in the full amount of the agreed-upon rent (\$1,250.00) due to poor living conditions, and Plaintiff argued that the agreed-

¹ Defendant filed a notice of appeal on December 13, 2024 following issuance of an order for judgment to enter. Judgment did not enter on the docket until December 17, 2024. She did not file another notice of appeal. Plaintiff did not seek to dismiss the appeal based on the premature notice, nor did he argue that he has been prejudiced by the premature filing. Accordingly, the court takes no position on whether the appeal is proper.

upon rent was well below fair rental value. Neither party was prepared for an evidentiary hearing on the issue of use and occupancy, so the hearing was postponed.

When the parties came before the court for the evidentiary hearing on January 24, 2025, Plaintiff tried to offer into evidence a written opinion of a real estate broker as to fair rental value, but he did not have a witness in the courtroom and the court excluded the opinion as hearsay evidence. Plaintiff testified that he believed that the Premises, a four-bedroom unit in a two-family home with a two-car garage and a large yard in a desirable neighborhood, would rent for \$2,300.00 per month on the open market. He offered no evidence to support his opinion. He testified that his carrying costs are approximately \$1,500.00 per month and noted that Defendant has paid no rent since a rental assistance payment was made on her behalf in October 2024.

Defendant introduced a correction order issued by the Town of Orange Board of Health dated November 20, 2024. None of the cited conditions were deemed to endanger or materially impair the health or safety of the occupants of the Premises. Although Plaintiff is required to correct the cited conditions, the court finds that the conditions do not warrant a reduction in the agreed-upon monthly rent amount. In December 2024, the Town of Orange Building Commissioner found the rear deck of the Premises to be unsafe. Defendant uses the deck as a second means of egress. Although an unsafe second means of egress can be a substantial code violation, the court is not convinced, based on the photographs and testimony, that the defect warrants a reduction in monthly rent at this time.

After considering the factors set forth in *Davis v. Comerford*, 483 Mass. 164

(2019) related to use and occupancy payments, and given the findings set forth herein, the court concludes that the amount of the periodic use and occupancy payments shall be identical to the last agreed-upon rental amount of \$1,250.00.

Accordingly, in consideration of the foregoing, the following order shall enter:

1. The appeal bond having been waived, Defendant shall make monthly payments of \$1,250.00 for her use and occupation of the Premises. The payments shall be made directly to Plaintiff.
2. The first payment shall be due fifteen (15) days from the date this order is entered on the docket. Subsequent monthly payment shall be due in thirty (30) day intervals after the initial payment and shall continue for the duration of the appeal.
3. Plaintiff may move to dismiss the appeal if Defendant fails to pay the installments of use and occupancy as required herein. See G.L. c. 239, § 5(h); see also *Cambridge Street Realty, LLC v. Stewart*, 481 Mass. 121, 137 n. 19 (2018) (“the statute permits dismissal of an appeal ... when a tenant fails to post the ... use and occupancy payment”).

SO ORDERED.

DATE: March 5, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4571

~~TOLIN~~ MAINA AND PAUL NJUGUNA,

Plaintiffs

v.

EDWIN TORRES,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR JUDGMENT

This summary process case for nonpayment of rent came before the court for a bench trial on January 16, 2025 and February 18, 2025. Plaintiffs were represented by counsel; Defendant appeared self-represented. The subject premises is one unit in a three-family house located at 15 Clayton Street, Unit 2, Springfield, Massachusetts.

Defendant stipulated to Plaintiffs' prima facie case for possession. He filed an answer with defenses and counterclaims; however, the only counterclaim or defense raised at trial was an allegation of cross-metering. Any other claims and defenses are deemed to have been waived. Based on the credible evidence and the reasonable inferences drawn therefrom, the court finds as follows:

Plaintiffs purchased the house on September 27, 2024. Defendant was residing in the house at the time of purchase. Monthly rent is \$1,200.00 and no payment has

been made since Plaintiffs purchased the home. Unpaid rent as of the conclusion of trial is \$6,000.00.

The house has no owner's electrical meter. The court finds that electricity serving common areas was connected to Defendant's electrical meter. Defendant contacted the Springfield Code Enforcement Department on December 19, 2024 and an inspection occurred on December 27, 2024. On December 30, 2024, Plaintiffs placed the electrical service in their names. Plaintiffs subsequently hired a licensed electrician to address the cross-metering issue.

Despite Defendant testifying that his electric bills were high, the weight of the credible evidence does not support a finding that he suffered any actual damages. He did not introduce electric bills or other proof of expenses. He was never without electricity in the period of Plaintiffs' ownership. The court finds that, once aware of the issue, Plaintiffs took prompt and reasonable and prompt steps to address the issue by hiring an electrician to address the issue and placing the electricity account in their name in the meantime. The Court concludes that Plaintiffs did not violate the covenant of quiet enjoyment. See G.L. c. 186, § 14.

The court further finds that the parties had no written agreement requiring Defendant to pay for electricity. Plaintiffs' act of charging Defendant for electricity without a written agreement is a violation of the State Sanitary Code and by extension a violation of G.L. c. 93A.¹ However, because Defendant did not demonstrate any actual damages, and because the court finds no breach of the

¹ The Court finds that G.L. c. 93A applies as Plaintiffs do not reside in the home and they rent all three units to unrelated parties.

covenant of quiet enjoyment, the concludes that Defendant is entitled only to nominal damages in the amount of \$25.00 for the c. 93A violation.²

In light of the foregoing, the following order shall enter:

1. Judgment shall enter for Plaintiffs in the amount of \$5,975.00, plus court costs.
2. Execution may issue upon written application following expiration of the 10-day appeal period.

SO ORDERED.
March 5, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

² Defendant did not prove that Plaintiff was aware of the cross-metering before he was in arrears with his rent, rendering G.L. c. 239, s. 8A inapplicable.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4281

OAKLAND STREET PROPERTIES, LLC,

Plaintiffs

v.

MARCIA CRENSHAW,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR STAY

This no-fault summary process case came before the court for a bench trial on January 23, 2025. Plaintiff appeared through counsel. Defendant, who is physically disabled, appeared self-represented. Plaintiff seeks to recover possession of a dwelling unit located at 294 Oakland Street, Unit 1L, Springfield, Massachusetts (the "Premises") from Defendant.

Defendant stipulated to Plaintiff's prima facie case for possession. The notice to quit terminated the tenancy as of October 1, 2024. The tenants did not file an answer and asserted no defenses at trial. Defendant does not currently have a pending application for rental assistance. She stated that she simply seeks time to move.

The court finds that (i) the Premises are used for dwelling purposes, (ii) the tenant has been unable to secure suitable housing, (iii) she has used due and

reasonable effort to secure other housing, and (iv) her application for stay is made in good faith and that she will abide by and comply with such terms and provisions as the court may prescribe. See G.L. c. 239, § 10. The court finds that Defendant meets the criteria for a statutory stay of execution of up to twelve months. See G.L. c. 239, § 9.

Based upon all the credible testimony and evidence presented at trial, and considering the governing law, it is ORDERED that:

1. Judgment shall enter for Plaintiff for possession only.¹
2. Issuance of the execution shall be stayed until April 1, 2025 (and the time in G.L. c. 235, § 23 tolled) on the condition that Defendant pays \$900.00 each month by the 5th beginning in February 2025.
3. Defendant shall continue to make reasonable efforts to locate and secure replacement housing and shall document those efforts by keeping a log of all locations as to which she has applied or made inquiry, including the address of the unit, date and time of contact, method of contact, name of contact person and result of contact.
4. Defendant will complete a RAFT application within seven days of the trial date.
5. If Defendant fails to make one or more of the required monthly payments, Plaintiff may file a motion to issue the execution.

¹ Plaintiff claims that unpaid rent is owed, but Defendant testified that she is in the process of filing a RAFT application. The court will allow the RAFT application to proceed prior to entering a judgment for monetary damages.

6. If Defendant does not vacate by April 1, 2025, and if she has not filed a motion for a further stay, Plaintiff shall be entitled to issuance of the execution by written application (with a copy sent to Defendant) without further hearing.
7. If Defendant seeks a further stay of issuance of the execution, her motion must include the information required in item 3 above.

SO ORDERED.
March 5, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 23-SP-2619

DONNA SCHAEFFLER,

Plaintiff

v.

KELLY REDFERN,

Defendant

ORDER DISMISSING APPEAL

This matter came before the court for hearing on Plaintiff's motion to dismiss the appeal on March 4, 2025. By way of background, Plaintiff filed this no cause residential summary process case on June 13, 2023. The parties entered into a court agreement on August 18, 2023 wherein Defendant agreed to vacate the premises on or before February 15, 2024. Defendant failed to vacate, and the court issued an order entering judgment on March 1, 2024.

Despite the order for judgment on March 1, 2024, judgment did not enter on the docket until March 11, 2024. Execution issued the same day. On March 21, 2024, a judge ordered that the docket be corrected to reflect that judgment entered on March 1, 2024 instead of March 11, 2024. Immediately after the hearing, Defendant filed a notice of appeal. In her notice, Defendant indicated she was appealing both the March 1, 2024 and the March 21, 2024 orders.

On March 28, 2024, the court vacated the March 21, 2024 order to change the date of entry of judgment. Because the execution should not have issued on March 11, 2024, the judge stopped the scheduled levy, waived the appeal bond and set use and occupancy at \$350.00 per month. Because the March 28, 2024 order nullified the March 21, 2024 order, there was no further basis to appeal of the March 21 order.

On July 24, 2024, Plaintiff filed a motion to dismiss the appeal for Defendant's failure to order transcripts. At a hearing on August 13, 2024, the court denied Plaintiff's motion and gave Defendant, who is self-represented and claimed she did not understand the process, additional time to order the transcripts. She did so. The court sent notice of assembly of record on December 16, 2024. Pursuant to the Rules of Appellate Procedure, Defendant had 14 days to docket the appeal.

When the time passed without the appeal being docketed, Plaintiff filed a motion to dismiss the appeal. At a hearing on January 28, 2025, the court denied the motion to dismiss and extended the time for Defendant to docket the appeal.¹ When she did not docket the appeal in a timely manner, on February 11, 2025, Plaintiff filed the instant motion to dismiss. Defendant acknowledged receiving the motion to dismiss yet has not docketed the appeal.

By way of explanation, among other excuses, Defendant blamed the court for making errors in her case, blamed court staff in both the Housing Court and Appeals Court for giving her incorrect information and claimed she had been sick. Defendant did not provide any evidence to support her claims. She indicated that she still would

¹ The primary reason the motion was denied is that it was brought to the court's attention that the Defendant's mailing address was incorrect. The court notes that, despite the error, Defendant had been receiving court notices and the court had no returned mail prior to the notice of assembly of the record.

not be able to docket the appeal because she was getting conflicting information about how to do it.

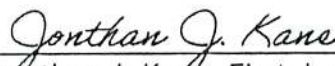
The court finds inexcusable neglect with respect to the appellant's failure to docket the appeal as of the date of the hearing today. Her excuses are hollow, especially given the fact that docketing the appeal is not a complicated process. She has been given plenty of time and more than one opportunity to complete this task. Her failure to do so is causing extreme prejudice to Plaintiff, who has been unable to recover possession of her property for over a year and has been receiving only \$350.00 in rent each month for use and occupancy.

Moreover, justice would not be served by allowing Defendant to continue her appeal after so much time has elapsed since she filed her notice of appeal on March 21, 2024. The court's March 21, 2024 order, which appears to have prompted the notice of appeal, has been vacated. The March 1, 2024 order simply entered judgment for possession because Defendant failed to vacate on the agreed date. She did not contend that she had vacated timely, and she did not raise any issues about the enforceability of the agreement. The court has no reason to give Defendant yet another extension of time to comply with the basic elements perfecting an appeal.

For all the foregoing reasons, Plaintiff's motion to dismiss the appeal is ALLOWED and an execution for possession shall issue forthwith.

SO ORDERED.

March 5, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 23-SP-4063

APPLETON CORP.,

Plaintiff,

v.

SHACARA ARNOLD,

Defendant.

ORDER

After Review Hearings on February 27 on March 6, 2025, the following order shall enter:

1. The landlord appeared through counsel and a representative from the Tenancy Preservation Program (TPP) appeared and reported.
2. The tenant did not appear to either hearing.
3. TPP reported that after numerous attempts it has not been able to meet further with the tenant since the December 31, 2024, hearing.

4. After a consultation with a representative from Way Finders, Inc. it was reported that the RAFT application was "timed out" on February 22, 2025, due to the landlord's non-response to RAFT's inquiries (two times by telephone).
5. Though the tenant's portion of the rent is \$0, the landlord reports that there is an outstanding balance of \$2,541 in rent/use/occupancy through March 2025, plus court costs and move-out cancellation costs.
6. The landlord requested that it be issued a new Execution. Given that this hearing was for "REVIEW" and the landlord did not file a motion for issuance of the Execution, that verbal request is denied, *without prejudice*.
7. If the landlord wishes to have the Court issue a new Execution, it shall mark up a motion for same.
8. In the meantime, the tenant is urged to reach out to TPP and follow up with RAFT.

So entered this 6 day of MARCH, 2025.



Robert Fields, Associate Justice

Cc: Bekki Craig, TPP

Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 23-SP-1501

HOUSING MANAGEMENT RESOURCES, INC.,

Plaintiff,

v.

PRECIOUS JORDAN,

Defendant.

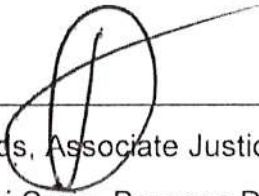
ORDER

After hearing on March 5, 2025, the following order shall enter:

1. The tenant has been complying with the terms of the Court's last order dated January 15, 2025.
2. The most recent RAFT application was denied due to the age of the court document submitted by the tenant to Way Finders, Inc. The tenant will now submit a copy of the January 15, 2025, Order and if needed a copy of this order.
3. The tenant shall continue to pay her rent plus \$600.

4. RAFT should consider this extra monthly payment of \$600 as a "repayment plan" under the program's requirements for any arrearage not covered by a RAFT grant.
5. This matter is being re-referred to the Tenancy Preservation Program (TPP). If TPP opens the case, the tenant shall cooperate with its recommendations and TPP will hopefully assist the tenant with her RAFT appeal as well as in other ways to be determined by TPP regarding the tenant's mental health concerns.
6. The landlord shall forthwith hire a licensed exterminator to treat the tenant's unit for rodent infestation.
7. The landlord shall also complete all other repairs.
8. This matter shall be scheduled for a Status Hearing on **April 9, 2025, at 9:00 a.m.**

So entered this 6 day of March, 2025.



Robert Fields, Associate Justice
Cc: Bekki Craig, Program Director TPP
Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Berkshire, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 23H79SP001587

HURRICANE PROPERTIES, LLC,

Plaintiff,

v.

LORRAINE JONES,

Defendant

Order for Entry of Judgment

This matter came before the court on March 5, 2025 for hearing plaintiff Hurricane Properties, LLC's *Motion for Entry of Judgment*. Defendant Lorraine Jones did not appear at the hearing.

The prior owner, Berkshire Home Rentals, LLC plaintiff commenced this summary process action in April 2023 seeking to recover possession and unpaid rent from the defendant Lorraine Jones. The property was sold to plaintiff Hurricane Properties, LLC in June 2024, and the claim for unpaid rent was assigned to the new owner. Hurricane Properties, LLC was substituted as the party-party plaintiff in this summary process action.

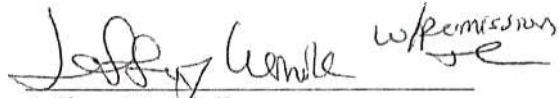
The parties entered into a written agreement on December 11, 2024. Under the terms of the agreement the defendant acknowledged that she owed \$4,050.00 through December 2024. The defendant agreed that commencing in January 2025 she would pay her monthly rent (\$675.00 that would increase to \$900.00 in March 2025) by the fifth day of each month plus an additional monthly amount (\$1,350.00) by the twentieth day of each month that would be applied towards the rent arrearage. The agreement provides that the plaintiff would be entitled to move for entry of judgment if the defendant failed to comply the payment provisions.

The defendant has not made any of the agreed upon payments. Her failure to do so constitutes a breach of material terms of the agreement. As of the end of February 2025, the defendant owes \$5,395.00 in unpaid rent.

Accordingly, the plaintiff's *Motion for Entry of Judgment* is **ALLOWED**.

It is **ORDERED** that judgment enter for the plaintiff on its claim against the defendant for possession and damages in the amount of \$5,395.00, plus costs and statutory interest, with execution to issue in due course.

So entered this 6th day of March 2025.


Jeffrey M. Winik
Associate Justice (Recall Appt.)

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
SUMMARY PROCESS ACTION
NO. 25H79SP000167

REBECCA JOHNSON,

Plaintiff

VS.

WILLIAM MILLER,¹

Defendant

**FINDINGS OF FACT, RULINGS OF LAW AND
ORDER OF JUDGMENT**

This is a summary process action in which Plaintiff Rebecca Johnson ((Johnson")) is seeking recover possession of a residential dwelling from Defendant William Miller ("Miller") based upon nonpayment of rent. Miller did not file a written answer.

Based upon all the credible testimony and evidence presented at bench trial conducted on March 5, 2025, and the reasonable inferences drawn therefrom, the Court finds as follows:

Johnson owns the single-family residential property at 33 Brooklyn Street, in North Adams, Massachusetts. In March 2018 Johnson rented the residence to Miller subject to the terms of a written lease.² The monthly rent was \$1,350.00 due by the first day of each month.

Miller failed to pay his monthly rent due for November and December 2024, and for January and March 2025. the rent due for August 2024. Miller made one payment of \$1,350.00 in February 2025. As of March 5, 2025 Miller owes \$5,400.00 in unpaid rent.

On December 19, 2024 Johnson served Miller with a legally sufficient 14-day notice to quit for nonpayment of rent.

¹ Kari Miller and Scott Miller vacated the premises and were dismissed as party-defendants.

² The lease included an option to purchase that is not at issue in this summary process action.

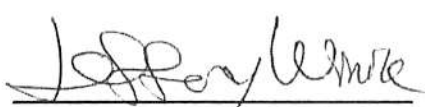
Johnson has established her claim to recover possession and damages for unpaid rent in the amount of \$5,200.00.

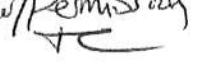
ORDER FOR JUDGMENT

Based upon all the credible testimony and evidence presented at trial in light of the governing law, it is **ORDERED** that:

1. Judgment enters for the plaintiff Rebecca Johnson and against the defendant William Miller for unpaid rent damages in the amount of \$5,400.00.
2. Execution for possession and money damages only shall issue in due course.

SO ORDERED this 6th Day of March, 2025.


Jeffrey M. Winik
Associate Justice (On Recall)

w/Permission


COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 25-CV-18

CLOVER KING,

Plaintiff,

v.

**SHARON BORDEAU and CHICOPEE
HOUSING AUTHORITY,**

Defendant.

ORDER

This matter came before the court on February 27, 2025, for hearing on the plaintiff's complaint for injunctive relief at which the plaintiff appeared self-represented and the defendants both appeared through counsel. After hearing, the following order shall enter:

1. The plaintiff, Ms. King, is seeking an order from the court aimed at stopping Ms. Bordeau from harassing her and for the Chicopee Housing Authority to takes steps to ensure that Ms. Bordeau ceases harassing behavior.

2. **SHARON BORDEAU:** With Ms. Bordeau's admissions under oath, there is no question that at some time in December 2024 and/or January 2025, Ms. Bordeau stood in front of Ms. King's door and took photographs of Ms. King's Ring doorbell/camera as well as place tape over the camera and kick the doormat.
3. Ms. Bordeau also testified that she is moving out of the premises very soon.
4. During the remaining time at the premises, Ms. Bordeau shall not stand in front of Ms. King's door nor take photographs of same nor place tape over the Ring camera or touch Ms. King's doormat.
5. **CHCOPEE HOUSING AUTHORITY:** After learning of Ms. Bordeau's actions described above, the housing authority's Director, Betsy Partyka-Narey, called Ms. Bordeau and told her to cease such behavior.
6. It appears that this "warning" was effective and Ms. Bordeau's behavior ceased.
7. The Chicopee Housing Authority shall investigate any further complaints filed by Ms. King regarding Ms. Bordeau should any such occur and take any and all appropriate steps thereafter in response.
8. **Duration of Order:** Unless otherwise ordered by the court, this case shall be dismissed on August 31, 2025.

So entered this 6 day of March, 2025.


Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-5248

GENNARO DIBENEDETTO, TRUSTEE, ET AL.,)

PLAINTIFFS)

v.)

NINA SERRANO, ET AL.,)

DEFENDANTS)

RULING ON MOTIONS TO COMPEL,
TO ADD INDISPENSABLE PARTIES
AND TO SET A TRIAL DATE

This case came before the court on March 6, 2025 on three separate motions. This order shall address Defendants' motions to compel and to add parties and Plaintiffs' motion to schedule a trial date in seriatim.

1. Defendants' Motion to Compel.

After review of Defendants' motion and Plaintiffs' opposition, the motion is ALLOWED. The court hereby orders that Plaintiffs immediately provide a copy of the trust document with the schedule of beneficiaries redacted. The trust document shall be used by Defendants' counsel solely for purposes of this litigation and shall not be shared outside of Defendants' office without leave of court.

Plaintiffs shall provide copies of all written communications (a) between and among Gennaro, Martino, Filomena DiBenedetto and (b) between any of the DiBenedettos and any third parties provided such communications relate to Defendants and/or 850 Parker Street, Springfield, Massachusetts. For the avoidance of

doubt, such communications shall include communications regarding not only the unit where Defendants reside but the building where the unit is located and exterior areas used by occupants of the building. To the extent the building houses other tenants, residential or commercial, the production shall include communications regarding common areas, shared mechanical systems (electrical, heat, etc.) and parking.¹

2. Defendants' Renewed Motion to Join Indispensable Parties

The court does not find Filomena DiBenedetto or Gennaro DiBenedetto to be indispensable parties. Therefore, Defendants' renewed motion to join indispensable parties is DENIED.

A party is indispensable if in its absence complete relief cannot be accorded among those already parties or if disposition of the action in its absence may impair its ability to protect its interests or may leave any of the persons already parties subject to risk of incurring multiple or otherwise inconsistent obligations. See Mass. R. Civ. P. 19(a). The counterclaims set forth in this case, for retaliation, breach of warranty, breach of quiet enjoyment, violation of the security deposit statute, breach of contract and violation of G.L. c. 93A are claims properly brought against a lessor or owner. To the extent Defendants contend that Filomena DiBenedetto or Gennaro DiBenedetto are liable for their actions, Defendants may seek to employ the procedures set forth in Mass. R. Civ. P. 14 for bringing in third parties.

¹ The court denies Defendants' request for sanctions without prejudice.

3. Plaintiffs' Motion to Set Trial Date.

Plaintiffs' motion to set a trial date is ALLOWED. The clerk's office shall schedule a case management conference to schedule any necessary pretrial motions and to set a trial date.

SO ORDERED.

March 7, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-CV-13

CITY OF HOLYOKE,

Plaintiff,

v.

ALYCAR INVESTMENTS, LLC (Owner) and
WILMINGTON SAVINGS BANK, Trustee
(Mortgagee), and JESSICA ANDUJAR
(Tenant)

Defendants.

ORDER

After hearing on March 10, 2025, at which the plaintiff City and the defendant property owner Alycar and the defendant mortgagee Wilmington appeared through counsel, the following order shall enter:

1. By agreement of the parties, Commercial Lender, LLC shall be dismissed as a party to this matter, *without prejudice*, and replaced by Wilmington Savings Bank, Trustee---which is now the mortgagee.¹
2. Wilmington's (hereinafter, "the Bank") motion to join the tenant of the second-floor unit, Jessica Andujar of 69 Gates Street in Holyoke, MA (hereinafter,

¹ Attorney Vanessa V. Pisano agreed to provide the court forthwith with the mailing address for her client, Wilmington Savings Bank.

"Andujar"), as a party to this action is allowed as follows: Andujar shall be added only relative to the Bank's request for injunctive relief that she be ordered to allow access to her unit for the Bank to remedy conditions of disrepair therein and not for any other claims between the other parties.

3. Andujar shall allow reasonable access to the Bank to make repairs in her unit.

The Bank shall provide no less than 48 hours' advance written notice of a request for access. Such notice shall describe the need for access (inspection, repairs, etc.), the timeframe for said access, and a telephone contact number for her to call to discuss said request for access.

4. This matter shall be scheduled for further hearing on **March 25, 2025, at 9:00 a.m.** at the Housing Court at 37 Elm Street in Springfield, MA.

5. The Bank shall have a copy of this Order, along with their motion to join and a copy of the City's Notice of Violation, served on Andujar by no later than March 11, 2025.

6. The Bank reports that they have completed work on the first-floor unit at the premises are continuing to make repairs. The City shall coordinate an inspection of the first-floor unit and issue an updated report prior the next hearing in this matter.

So entered this 10 day of March, 2025.

Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 23-SP-5178

MELRO ASSOCIATES INC.,

Plaintiff

v.

MIGDALIA RASMUSSEN,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR JUDGMENT

This summary process case came before the court on January 2, 2025 on Plaintiff's motion for summary judgment. Plaintiff appeared through counsel. Defendant appeared self-represented. The residential premises in question are located at 131 Maple Street, East Longmeadow, Massachusetts (the "Property").

The standard for review on summary judgment "is whether, viewing the evidence in the light most favorable to the non-moving party, all material facts have been established and the moving party is entitled to a judgment as a matter of law." *Augat, Inc. v. Liberty Mut. Ins. Co.*, 410 Mass. 117, 120 (1991). See Mass. R. Civ. P. 56 (c). The moving party must demonstrate with admissible evidence, including deposition testimony, answers to interrogatories, admissions, documents, and affidavits, that there are no genuine issues as to any material facts, and that the moving party is entitled to a judgment as a matter of law. *Community National Bank v. Dawes*, 369 Mass. 550, 553-56 (1976). "Any doubts as to the existence of a genuine

issue of material fact are to be resolved against the party moving for summary judgment.” *Lev v. Beverly Enters-Mass., Inc.*, 457 Mass. 234, 237 (2010).

In a summary process action for possession after foreclosure by sale, Plaintiff must make a prima facie showing that it obtained a deed to the subject property and that the deed and affidavit of sale, showing compliance with statutory foreclosure requirements, were recorded. See *Bank of New York v. Bailey*, 460 Mass. 327, 334 (2011); see also *Fed. Nat’l Morg. Ass’n v. Hendricks*, 463 Mass. 635, 642 (2012) (in a summary process action a foreclosure deed and statutory form [affidavit] constitute prima facie evidence of the right of possession).

Plaintiff filed a statement of material facts on December 9, 2024. In brief, Plaintiff showed that the mortgage relevant in this case was given by Defendant’s mother, Carmen M. Mercado, to Bank of America and recorded at the Hampden County Registry of Deeds (the “Registry”) in 2013. After a series of assignments, each of which was recorded at the Registry, the mortgage was held by US Bank Trust National Association as Trustee of the Bungalow Series IV Trust in 2021 when the 90-day cure letter was sent to the borrower. In November 2022, the bank’s servicer executed an affidavit pursuant to G.L. c. 244, §§ 35B and 35C. A foreclosure sale was conducted in August 2023 at which Plaintiff was the high bidder. A foreclosure deed and an Affidavit of Sale were subsequently recorded, vesting title in Plaintiff.

Plaintiff served Defendant with a legally sufficient notice to vacate on November 1, 2023. She does not dispute receipt of the notice. Defendant failed to vacate and continues to occupy the Property. Plaintiff filed this case on November 14,

2023. The court concludes that Plaintiff has established its prima facie case for possession.

Once the moving party meets its initial burden, the non-moving party must set forth specific facts showing there is a genuine, triable issue; otherwise, summary judgment will be entered against it. See *Community Nat'l Bank v. Dawes*, 369 Mass. 550, 554 (1976). Defendant cannot simply rest on her pleadings or bare assertions that there exist disputed facts. See *LaLond v. Eisner*, 405 Mass. 207, 209 (1989).

In her answer, Defendant states that she does not believe "the bank complied with paragraph 22 of my mother's mortgage." She also checked boxes indicating that the foreclosure is void and that she was treated unfairly. In her opposition to summary judgment, she does not make any legal argument but offers exhibits purportedly showing that an earlier mortgage (from 2006) had been discharged. The court discerns no competent evidence to support Defendant's assertions that there were defects in the foreclosure process or, more generally, that there are any genuine issues of fact in dispute.

Based on the summary judgment record, the court finds that Plaintiff has proven its superior right to possession through the submission of undisputed documents. Accordingly, judgment for possession shall enter in favor of Plaintiff, and execution shall issue by written application after the 10-day appeal period.

SO ORDERED.

March 10, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden , ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 23SP2898

Acles LLC Juan Velez

PLAINTIFF(S)

v.
Edwin Rosario

DEFENDANT(S)

ORDER

After hearing at which ☐ both parties ☐ plaintiff only ☒ defendant only appeared, the Court orders the following:

On January 23, 2025, Defendant appeared before the undersigned in docket number 24CV1057 for a hearing of his G.L. c. 30A appeal of the Executive Office of Housing and Livable Communities' denial of his Emergency Assistance (EA) benefits. By order entered on March 5, 2024, Defendant's c. 30A appeal was denied.

At the January 23, 2025 hearing in 24CV1057, the court canceled the review in this case scheduled for January 31, 2025 because the c. 30A appeal was under advisement. The court indicated that, after ruling on the c. 30A appeal, it would address the stay on execution put in place in the October 25, 2024 order of this court (Dalton, J.).

Given that the c. 30A appeal was denied, the stay on execution in this case shall be lifted. Because the time to use the execution had been tolled under G.L. c. 235, s. 23, an execution may issue (upon return of the original, if not already returned). If additional unpaid use and occupancy has accrued since issuance of the execution on August 19, 2024, Plaintiff may file an affidavit indicating the current balance of rent and use and occupancy owed. A copy of the affidavit shall be sent to Defendant simultaneously with the filing. Execution shall not issue until 10 days after the affidavit is entered on the court's docket. If Defendant objects to the amounts in the affidavit, he may file an objection to the issuance of the execution within the ten-day period and a hearing will be scheduled by the clerk's office. If no objection is received, the execution shall issue in the amount set forth in the affidavit.

SO ORDERED:

Jonathan J. Kane
Jonathan J. Kane, First Justice

DATE: 3/11/25

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4083

SAK PROPERTIES, LLC,

Plaintiff

v.

ALVIN PAIGE,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND G.L. c. 239, § 8A ORDER

This summary process case came before the court on January 21, 2025 for a bench trial. Plaintiff (the landlord) appeared through counsel and Defendant (the tenant) each appeared self-represented. The landlord seeks to recover possession of residential premises located at 52 Westfield Street, Unit 25, West Springfield, Massachusetts (the “Premises”) from the tenant based on nonpayment of rent.¹

Prior to the start of trial, the parties stipulated to the landlord’s prima facie case for possession and unpaid rent in the amount of \$4,735.00.² Monthly rent is \$675.00. Defendant filed an answer alleging defective conditions, harassment and security concerns. Based on the credible testimony and the other evidence presented at trial,

¹ Defendant had a pending application for rental assistance that was scheduled to close with days. His maximum amount of eligibility is \$2,500.00 and would not cure the arrearage. If Defendant can prove his ability to pay the full arrears with RAFT assistance, he is invited to file a motion to stay.

² Prior to the commencement of trial, the court denied Defendant’s oral request for a continuance to find counsel. The case was filed in October 2024 and trial has been continued one month already. Summary process is intended to be “just, speedy, and inexpensive.” U.S.P.R. 1. Further, Defendant said he was ready for trial and had printed exhibits but thought it would be beneficial to have a lawyer. This is an insufficient basis for a continuance.

the reasonable inferences drawn therefrom and the pretrial stipulations, the court finds as follows:

Defendant moved into the Premises in August of 2021. He claims that he has suffered from several conditions of disrepair, including faulty and outdated appliances that are energy inefficient. He also testified about leaks in the kitchen and bathroom sinks, the bathroom sink separating from the wall, and a mold-like grown in the tub area in the bathroom. He offered insufficient credible evidence to support any of these claims.³ Defendant did not offer any code enforcement reports or other inspection reports, no visual evidence of the conditions, and no witness testimony in support of his claims.

Defendant's primary allegations involve claims of interference with quiet enjoyment. Defendant testified credibly about the ongoing harassment he suffered at the hands of a neighbor, Mr. Ward. The property manager acknowledged that he was aware of Defendant's complaints about Mr. Ward. When asked if took reasonable steps to preserve Defendant's right to the peaceful enjoyment of his tenancy, the property manager testified that he does not get involved with neighbor disputes in the building and considers them to be a matter for the police. In this case, Defendant did contact the police and ultimately obtained a restraining order against Mr. Ward.⁴ The property manager testified that the rear of the property where the parking area is located is not monitored and is without security devices.

³ His evidence consisted of a set of text messages, which messages were incomplete and not in chronological order. The court did not find these messages sufficient to warrant a finding of liability against Plaintiff related to defective conditions in the Premises.

⁴ Defendant offered a police report into evidence that, while inadmissible to prove the truth of the matter asserted, is sufficiently reliable as corroboration of Defendant's claim that Mr. Ward had targeted his vehicle for vandalism.

Although the evidence does not support Defendant's allegation that management encouraged Mr. Ward's behavior and/or "put him up to it" to drive him from the property, the evidence does show by a preponderance of the evidence that Defendant has been the victim of severe and longstanding harassment, possibly racially motivated, by another tenant in the same building. The statutory right of quiet enjoyment protects a tenant from serious interference with the tenancy, such as acts or omissions that impair the character and value of the leasehold. See *Doe v. New Bedford Housing Auth.*, 417 Mass. 273, 285 (1994). The statute does not require that the landlord act intentionally to interfere with a tenant's right to quiet enjoyment. *Al-Ziab v. Mourgis*, 424 Mass. 847, 850 (1997). Pursuant to G.L. c. 186, § 14, a landlord who "directly or indirectly interferes with the quiet enjoyment of any residential premises by the occupant ... shall ... be liable for actual and consequential damages, or three month's rent, whichever is greater, and the costs of the action, including a reasonable attorney's fee."

Here, the court concludes that Plaintiff indirectly interfered with Defendant's quiet enjoyment by failing to take any reasonable steps to protect Defendant from the harassment by another tenant after being put on notice of it. As a result of Plaintiff's violation of G.L. c. 186, § 14, Defendant is entitled to damages equal to three times the monthly rent.⁵ After offsetting the damages to which Defendant is entitled (\$1,950.00) against the unpaid rent through the date of trial (\$4,735.00), the remaining balance owed Plaintiff through January 2025 is \$2,785.00.

⁵ Defendant did not claim actual damages. To the extent he made other allegations about mismanagement, including its failing to respond to him appropriately, harassing him about using a grill and having insufficient signage, these claims were not supported by substantial credible evidence.

Accordingly, based on the findings and in light of the governing law, the following order shall enter:

1. Plaintiff is entitled to judgment for possession and damages in the amount of \$2,785.00, plus court costs and statutory interest.
2. Pursuant to G.L. c. 239, § 8A, Defendant shall have ten (10) days from the date this order is entered on the docket to deposit with the clerk of the court the sum of \$2,785.00, plus court costs of \$ ~~245.77~~ and interest in the amount of \$ ~~142.02~~, for a total of \$ ~~3,172.79~~. The deposit shall be made by money order or bank check payable to the "Commonwealth of Massachusetts."
3. If such deposit is made, judgment for possession shall enter for Defendant. Upon written request by Plaintiff, the clerk shall release the funds on deposit to Plaintiff.
4. If the deposit is not received by the clerk within the ten-day period, judgment shall enter for Plaintiff for possession and damages in the amount of \$2,785.00 plus costs and interest, and execution shall issue by written application pursuant to Uniform Summary Process Rule 13.
5. If Defendant applies for rental assistance, this case shall be subject to G.L. c. 239, § 15, and Plaintiff may not seek or use an execution to recover possession until such an application is denied or closed.

SO ORDERED.
March 19, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-0991

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR THE STRUCTURED ASSET
INVESTMENT LOAN TRUST MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2004-10,

Plaintiff

v.

CHRISTINE E. CANAVAN,

Defendant

ORDER ON PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

This summary process case came before the court on Plaintiff's motion for summary judgment. The standard for review on summary judgment "is whether, viewing the evidence in the light most favorable to the non-moving party, all material facts have been established and the moving party is entitled to a judgment as a matter of law." *Augat, Inc. v. Liberty Mut. Ins. Co.*, 410 Mass. 117, 120 (1991). See Mass. R. Civ. P. 56 (c). The moving party must demonstrate with admissible evidence, including deposition testimony, answers to interrogatories, admissions, documents, and affidavits, that there are no genuine issues as to any material facts, and that the moving party is entitled to a judgment as a matter of law. *Community National Bank v. Dawes*, 369 Mass. 550, 553-56 (1976). "Any doubts as to the existence of a genuine issue of material fact are to be resolved against the party moving for summary judgment." *Lev v. Beverly Enters-Mass., Inc.*, 457 Mass. 234, 237 (2010).

Defendant opposes summary judgment in part on the grounds that the publication notice recorded in the local newspaper was defective because it did not identify all the recorded assignments. The foreclosure deed attached to Plaintiffs' motion for summary judgment includes a copy of the publication notice and it clearly fails to recite the assignment of the mortgage note from Bank of America to U.S. Bank. Furthermore, the signatory line on the publication notice identifies U.S. Bank as the successor in interest to Bank of America.

On January 23, 2025, Plaintiff filed a supplement to its motion for summary judgment which included a copy of a Corrective Affidavit of Foreclosure Sale that Harmon Law Offices, P.C., as attorneys for Plaintiff executed and filed with the Hampshire County Registry of Deeds (Book 15335, Page 326) on January 22, 2025. The Corrective Affidavit of Foreclosure Sale provides in relevant part Harmon Law Offices, P.C. "caused to be published on September 5, 2023, September 12, 2023 and September 19, 2023, in The Republican, a newspaper having a general circulation in Granby, a notice of which the following is a true copy." The publication notice attached to the Corrective Affidavit of Foreclosure Sale includes the assignment from Bank of America to U.S. Bank and removes the reference in the signatory line that U.S. Bank was "successor in interest to" Bank of America.

Considering the discrepancy between the publication notice included with the foreclosure deed as part of Plaintiff's motion for summary judgment and the publication notice included with the Corrective Affidavit of Foreclosure Sale as part of the supplement to motion for summary judgment, the court concludes that there is a

genuine issue of material fact as to which publication notice was published in The Republican in 2023.

Therefore, Plaintiff's motion for summary judgment is denied.

SO ORDERED.

March 11, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden , ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24SP0265

JAMES FIORE

PLAINTIFF(S)

v.

THOMAS JOSEPH

DEFENDANT(S)

ORDER

After hearing at which [☒] both parties [☐] plaintiff only [☐] defendant only appeared, the Court orders the following:

Defendant's motion to vacate default is DENIED. The court considers the motion to be a Rule 60(b) motion for relief from judgment, and Defendant meets none of the criteria.

This is a summary process case filed in January 2024 in which judgment for possession entered by default in March 2024. Defendant failed to appear for the hearing on his motion to vacate the default on March 28, 2024. He appeared on May 15, 2025 for a hearing on his motion to stop an eviction, which was allowed, and on June 6, 2025 he entered into an agreement that would allow him to reinstate the tenancy. When he failed to comply with the terms of the agreement, execution issued. Defendant's subsequent motion to stop the eviction was denied on December 27, 2024 and the levy occurred thereafter.

Defendant now claims that Plaintiff did not have a superior right to possession because the deed recorded to grant title to Plaintiff is invalid. This information was known throughout summary process case and was not raised at any time despite numerous court hearings. Possession has been returned to Plaintiff based in significant part on an agreement of the parties in which Defendant stipulated that his was a tenant.

Accordingly, the court denies Defendant's request for relief from judgment and denies Defendant's motion for injunctive relief after weighing in combination his likelihood of success on the merits of his claim to ownership with the risk of irreparable harm to Plaintiff if injunctive relief is granted that allows Defendant to regain possession.

SO ORDERED:

Jonathan J. Kane
Jonathan J. Kane, First Justice

DATE: 3/12/25

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-1234

DAVID GRAHAM,

PLAINTIFF
v.

NINA DUPUIS,

DEFENDANT

ORDER TO SET APPEAL BOND

This summary process case came before the court on March 11, 2025 for a hearing on Plaintiff's motion to set the appeal bond. Plaintiff appeared with counsel. Defendant appeared self-represented. Judgment entered against Defendant on February 6, 2025. Defendant filed a timely notice of appeal.

Plaintiff is not seeking payment of any past due money, so there is no need for an appeal bond regarding past due amounts.¹ Even when no monies are outstanding, the court can and will require Defendant, as a condition for maintaining her appeal, to pay Plaintiff for her ongoing use and occupancy of the premises for the duration of the appeal.

The court conducted an evidentiary hearing with respect to the appropriate amount of use and occupancy payments. The credible evidence shows that Defendant

¹ Defendant is entitled to a waiver of the appeal bond where he demonstrates both indigency, as defined in G. L. c. 261, § 27A, and the existence of a nonfrivolous defense. See G. L. c. 239, § 5 (e).

moved into a unit as an unauthorized occupant. By agreement of the parties entered on June 20, 2024, Plaintiff permitted Defendant to reside in the premises until December 31, 2024. Defendant was not required to pay for her use and occupancy of the premises at that time, and therefore there is no agreed-upon use and occupancy amount. Plaintiff contends that the lease with Mr. Santiago, the authorized tenant, stipulated a monthly rent of \$2,000.00. Defendant demonstrated by texts that the last agreed-upon rental amount with Mr. Santiago was \$1,400.00.

Although Defendant contends that the home is uninhabitable, she did not support her contention with credible evidence; moreover, she did not object to a use and occupancy rate of \$1,400.00 per month. After considering all the credible evidence presented at the hearing, and in light of the foregoing, the court concludes that the use and occupancy rate for the duration of the appeal shall be \$1,400.00 per month.

Accordingly, the following order shall enter:

1. For the duration of the appeal or until she vacates, whichever occurs first, Defendant shall pay Plaintiff \$1,400.00 by the 21st of each month, with the first payment due on March 21, 2025.²
2. Plaintiff may move to dismiss the appeal if Defendant fails to make the required payments. See G.L. c. 239, § 5(h); see also *Cambridge Street Realty, LLC v. Stewart*, 481 Mass. 121, 137 n. 19 (2018) (“the statute permits dismissal of an appeal ... when a tenant fails to post the ... use and occupancy payment”).

² This date was communicated to Defendant from the bench during the hearing.

SO ORDERED.

March 12, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0201

NORTHAMPTON HOUSING AUTHORITY,

Plaintiff

v.

KYLE WOOD,

Defendant

ORDER ON APPLICATION FOR
INJUNCTIVE RELIEF

This case came before the court on March 12, 2025 on Plaintiff's application for injunctive relief. Plaintiff appeared through counsel. Defendant ("Mr. Wood") failed to appear. The property in question is located at 35 Fruit Street, #D-48, Northampton, Massachusetts (the "Premises"). Plaintiff seeks an order that Mr. Wood be barred from the property known as Cahill Apartments pending an order for judgment for possession.

In considering a request for injunctive relief, the court evaluates in combination the moving party's claim of injury and chance of success on the merits. If the court is convinced that failure to issue the injunction would subject the moving party to a substantial risk of irreparable harm, the court must then balance this risk against any similar risk of irreparable harm which granting the injunction would create for the opposing party. What matters as to each party is not the raw amount of irreparable harm the party might conceivably suffer, but rather the risk of such harm in light of the party's chance of success on the merits. Only where the balance between these risks cuts

in favor of the moving party may a preliminary injunction properly issue. *See Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609, 617 (1980).

Here, Plaintiff filed a complaint verified by the property manager and offered witness testimony, supported by images, showing used syringes littered throughout the Premises. The witnesses testified credible about used syringes found in common areas of the property of Cahill Apartments and likely drug activity in and around the Premises that has significantly disrupted the quiet enjoyment of other tenants. Mr. Wood failed to appear to present a defense. The court finds that Plaintiff has demonstrated a reasonable likelihood of prevailing on the merits of its claim that Mr. Wood has substantially violated material terms of his lease and that the failure to grant injunctive relief would cause a significant risk of irreparable harm to Plaintiff.

Accordingly, the following order shall enter as a preliminary injunction:

1. After being served with this order by Plaintiff,¹ Mr. Wood shall vacate the Premises within 48 hours.
2. Mr. Wood may not return to the Premises without further court order.
3. After Mr. Wood vacates, Plaintiff may change the locks to secure the Premises, provided that it shall reasonably permit Mr. Wood access during business hours to retrieve personal belongings if necessary.
4. If Mr. Wood fails to vacate voluntarily, Plaintiff may seek the assistance of the Northampton Police Department, whose officers are authorized to assist Plaintiff in having Mr. Wood removed from the Premises pending further court order.

¹ This order may be served by management by leaving it at the Premises. Plaintiff shall submit a certificate describing the way service was made.

5. This order does not return possession of the Premises to Plaintiff, and Plaintiff is not authorized to remove Mr. Wood's belongings without Mr. Wood's consent or levy upon an execution for possession.
6. Mr. Wood may file an emergency motion to modify this preliminary injunction at any time.
7. The fee for injunctions is hereby waived.

SO ORDERED.

March 12, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-3050

JEFFREY GINSBERG,
Plaintiff

v.

EDWARD RIGGIO AND DEVONA GRAHAM,
Defendants

ORDER ON DEFENDANTS'
PETITION FOR ATTORNEYS'
FEES

A one-hour bench trial was conducted on December 16, 2024 in this summary process case brought for non-payment of rent. Defendants now petition for an award of attorneys' fees in the amount of \$2,175.00. Plaintiff opposes the amount of the fees sought in the petition.

In calculating the amount of an award of attorneys' fees, the court uses the "lodestar" method. Under the "lodestar" method, "[a] fair market rate for time reasonably spent in litigating a case is the basic measure of a reasonable attorney's fee under State law as well as Federal law." *Fontaine v. Ebtac Corp.*, 415 Mass. 309, 325-26 (1993). The actual amount of the attorneys' fees is largely discretionary with the trial court judge. *Linthicum v. Archambault*, 379 Mass. 381, 388 (1979). An evidentiary hearing is not required. *Heller v. Silverbranch Const. Corp.*, 376 Mass. 621, 630-631 (1978).

In support of the attorneys' fee petition, Defendants' counsel, Bex Bernocco, submitted an affidavit seeking compensation for 8.7 hours of time at a billing rate of \$250.00 per hour. After trial, Defendants prevailed on their claim for violation of the covenant of quiet enjoyment under G.L. c. 186, § 14 and are therefore entitled to a statutory award of reasonable attorneys' fees and costs. See G.L. c. 186, § 14 ("Any person who commits any act in violation of this section shall also be liable for actual and consequential damages or three month's rent, whichever is greater, and the costs of the action, including a reasonable attorney's fee."). They did not prevail on their other fee-shifting claim under G.L. c. 186, § 18 for retaliation. Defendants did, however, defeat Plaintiff's claim for possession based on a retaliation defense brought under G.L. c. 239, § 2A.

The court finds that the requested hourly rate of \$250.00 is reasonable. The court further finds that six hours is a reasonable amount of time to spend preparing for and conducting a one-hour bench trial in a case of this nature and complexity adjusted to account for the one successful fee-shifting claim. Accordingly, after considering the factors set forth in *Linthicum*, the following order shall enter:

1. Judgment shall enter for Defendants on their claim for attorneys' fees in the amount of \$1,500.00.¹
2. The award of attorneys' fees is without interest.

SO ORDERED.
March 13, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

¹ Defendants do not seek an award of costs.

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-1627

RICHARD GUIMOND,

Plaintiff,

v.

MARCUS EBERHART,

Defendant.

ORDER

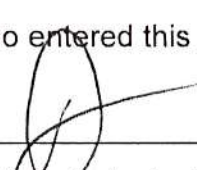
After hearing on March 11, 2025, the following order shall enter:

1. Given the tenant's payment yesterday of \$800 to pay towards the costs incurred by scheduling the physical eviction currently scheduled for March 12, 2025, and given the fact that the tenant's RAFT application is pending, and the tenant has as of this morning downloaded a copy of his lease, the court shall cancel the physical eviction.
2. The landlord shall provide the tenant with copies of the invoices for the constables and moving/storage company that were incurred by scheduling the physical eviction. If the costs are less than \$800, the landlord shall credit

the difference to the tenant's ledger towards arrearage. If the costs exceed \$800, the remainder shall be added to the ledger and should be part of the RAFT application.

3. The tenant shall pay \$250 every Friday. The first \$800 of said payments each month shall go towards rent and the remainder towards the arrearage.
4. Currently the arrearage through March 2025 is \$10,400 (not including any portion of the \$800 payment on 3/11/2025 after payment towards the physical eviction cancelled by this Order).
5. The tenant may not withhold rent for any reason without leave of court.
6. By agreement of the parties, if the tenant fails to make the weekly payments of \$250, the landlord may use the execution it is currently holding.
7. The stay terms of this order shall toll the time frames articulated in G.L. c.235, s.23.
8. This matter shall be scheduled for any properly marked motions and for a Status Hearing on **March 24, 2025, at 2:00 p.m.**

So entered this 13 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-3387

MAPLE STREET ROW HOUSES, LLC,

Plaintiff,

v.

ANDREW LOOR,

Defendant.

ORDER

After hearing on March 6, 2025, on the tenant's motion to vacate a default judgment at which the landlord appeared through counsel and the tenant appeared self-represented, the following order shall enter:

1. The tenant explained that he was sick with COVID symptoms on the morning of January 31, 2025, when this matter was scheduled for trial. He further stated that he contacted the Clerks Office that morning and was informed that because he was not going to appear a default would enter against him and he could file a motion to vacate the default. He did exactly that and said motion was marked for hearing.

2. The tenant is also asserting claims and defenses in his November 6, 2024, Answer.
3. The court finds that the tenant has provided good cause for failing to appear on January 31, 2025, and is asserting colorable defenses and counterclaims, and as such the motion is allowed and the default judgment vacated.
4. This matter shall be scheduled for a judicial Case Management Conference on **March 27, 2025, at 9:00 a.m.** There was some discussion at the hearing whether the landlord has fully responded to the tenant's discovery demand. It is unclear whether or not this has been accomplished. The landlord is urged to review whether or not there has been compliance with the discovery demand and, if not, to do so prior to the next hearing.

So entered this 13 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

OK

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0201

NORTHAMPTON HOUSING AUTHORITY,

Plaintiff

v.

KYLE WOOD,

Defendant

MODIFICATION OF ORDER ON
APPLICATION FOR INJUNCTIVE RELIEF

This case came before the court on March 13, 2025 for Defendant's modification of the court's March 12, 2025 order on Plaintiff's application for injunctive relief. Plaintiff appeared through counsel. Defendant ("Mr. Wood") appeared self-represented. The property in question is located at 35 Fruit Street, #D-48, Northampton, Massachusetts (the "Premises").


Following the evidentiary hearing, the preliminary injunction shall be modified as follows:

1. Mr. Wood shall not be required to vacate the Premises at this time on the following conditions:
 - a. He shall not engage in illegal activities in the Premises or on any Northampton Housing Authority property; and
 - b. he shall not enter onto any Northampton Housing Authority property (other than Cahill Apartments) including but not limited to the Walter Salvo House; and

- c. he shall have no visitors at the Premises or in any common area at Cahill Apartments; and
 - d. he shall allow for weekly inspections of the Premises on Fridays at 10:00 a.m., the purpose of which is to ensure that the conditions of the Premises are not creating a substantial risk of harm to the health and welfare of other residents or staff;¹and
 - e. he shall continue to take appropriate steps to minimize the behaviors that have in the past placed the health and welfare of other residents and staff at risk.
2. This order shall remain in effect for 120 days or until further order of the court, whichever occurs first.
3. Plaintiff may seek a short order of notice for a hearing to further modify this order if it contends that Mr. Wood has substantially violated the injunction.

SO ORDERED.

March 13, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

¹ If Plaintiff believes it has reason to do a wellness check on Mr. Wood at any other time, it shall have the police or a non-police community care response team conduct such a check.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Franklin ☐, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25CV0200

Jae McLellan and Andrea M McLellan

PLAINTIFF(S)

v.
Colin Garland

DEFENDANT(S)

ORDER

After hearing at which ☐ both parties ☒ plaintiff only ☐ defendant only appeared, the Court orders the following:

1. Having weighed in combination the likelihood of success of Plaintiff's claims and the parties' respective risks of irreparable harm, the Court is satisfied that the Plaintiffs have met the standard for injunctive relief as set forth in *Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609 (1980).
2. Given that Plaintiffs have a child under the age of 6 and it is unknown whether the unit has lead hazards, Defendant shall retain a licensed lead inspector forthwith to test the property located at 360 C Patten Road in Shelburne Falls ("Premises") for lead hazards.
3. Defendant shall not permit any repairs or renovations to be done at the Premises prior to receiving the results of the lead testing. Defendant shall comply with Massachusetts laws and regulations regarding deleading.
4. Defendant shall not access the Premises without Plaintiffs' permission after at least 24 hours' advance written notice. Plaintiffs shall not unreasonably deny access. Defendant and his agents and/or contractors shall only enter the Premises through the main entry door (not the entry accessible from the first floor rental unit).
5. Defendant is hereby ORDERED TO APPEAR in the Greenfield session of the Western Division Housing Court on March 21, 2025 at 9am for further hearing on Plaintiffs' request for injunctive relief. At that hearing, Plaintiffs shall bring any notices of violation issued by the Board of Health.

SO ORDERED:

Jonathan J. Kane
Jonathan J. Kane, First Justice

DATE: 3/14/25

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-2998

SPRINGFIELD HOUSING AUTHORITY,

Plaintiff,

v.

MAGARITA CRUZ,

Defendant.

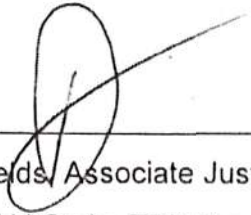
ORDER

After hearing on March 10, 2025, on the plaintiff landlord's motion for lifting the stay on its execution at which only the landlord appeared and the tenant did not appear after proper notice, the following order shall enter:

1. After consulting with a representative from Way Finders, Inc. during the hearing it was reported that the tenant's RAFT application was closed due to the failure of the Springfield Housing Authority to respond to Way Finders, Inc.'s email and calls.
2. Additionally, the landlord reported that the tenant paid her rent March 2025.
3. Given the above, the landlord's motion is continued to the date noted below.

4. In the meantime, the tenant shall reapply for RAFT and both parties shall diligently pursue that application.
5. The tenant shall pay her rent timely beginning in April 2025 plus \$20 towards the arrearage. Way Finders, Inc. should view this as a "repayment plan" for RAFT purposes.
6. Though this matter was referred to the Tenancy Preservation Program no one from that agency appeared at this hearing. The tenant is urged to work with TPP. TPP is requested to appear at the next hearing to report.
7. This matter shall be scheduled for **March 25, 2025, at 9:00 a.m.**

So entered this 14th day of March, 2025.



Robert Fields, Associate Justice

Cc: Bekki Craig, TPP Program Director
Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-3878

SHP MANAGEMENT CORP,

Plaintiff,

v.

BARBARA HOOPER,

Defendant.

ORDER

Per the court's March 5, 2025, Order regarding the granting of authority to the Guardian Ad Litem, Attorney Edward Bryant, to access information from Citizens Bank and from the landlord regarding Ms. Hooper's account(s) and use of money orders to pay her rent, the following order shall enter:

1. The Guardian ad litem (GAL) is empowered and ordered to investigate and report on Barbara Hooper's Citizen Bank Account activities as they relate to and reflect her payment of rent to SHP Management for her apartment at 92 Paul Revere Drive in Feeding Hills, Massachusetts; for this purpose, GAL is authorized to access from Citizens Bank any information to which Ms. Hooper is herself entitled, and to be provided all relevant documents.

2. GAL is empowered and ordered to investigate and report on the process by which SHP Management receives and records payments from Ms. Hooper, and to determine whether Ms. Hooper's payments have been properly credited to her account on SHP Management's ledger. GAL shall investigate and determine whether SHP's records reflect how payment have been made, including, but not limited to, whether Ms. Hooper's payments, or any of them, were made from her Citizens Bank checking account, or through instruments such as checks or money orders purchased by Ms. Hooper via Citizens Bank. GAL is authorized to access from SHP Management any information to which Ms. Hooper is herself entitled, and to be provided all relevant documents.
3. GAL is empowered and ordered, if appropriate, to apply on behalf of Ms. Hooper for RAFT Assistance; GAL may, if necessary, register online within the RAFT Application process as an "Advocate" for Ms. Hooper, using the description "Housing Court GAL." GAL is authorized to interact on her behalf with Way Finders, Inc., and to access any RAFT application information to which Ms. Hooper is herself entitled, and to be provided all relevant documents.
4. If Ms. Hooper chooses on her own to complete the RAFT Application in her own name, GAL is directed to assist her in the process.
5. GAL shall limit his inquires and other contacts with Citizens Bank, with SHP Management, and with Way Finders to those necessary to accomplish the purposes stated within this order.
6. GAL shall report his findings to the Court on or before April 21, 2025, and to provide to the Court appropriate documentation.

So entered this 17 day of march, 2025.


Robert Fields, Associate Justice

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-CV-215

NORTHAMPTON HOUSING AUTHORITY,

Plaintiff,

v.

ROSELIN NAZARIO,

Defendant.

ORDER

After hearing on March 17, 2025, on the plaintiff landlord's verified complaint for injunctive relief at which the defendant tenant failed to appear, the following order shall enter:

1. Based on the verified complaint (no witness testified, nor other evidence admitted), the tenant Rosellin Nazario is ordered to refrain from causing disturbances and engaging in criminal activity at the premises.
2. The landlord shall serve the tenant with a copy of this order FORTHWITH.
3. A referral has been made to the Tenancy Preservation Program and that program is requested to reach out to the tenant prior to the next hearing noted

below. Mike Richtell was in the courtroom during this hearing and was handed a completed referral form.

4. This matter shall be scheduled for hearing on **March 24, 2025, at 9:00 a.m.**

So entered this 18 day of March, 2025.



Robert Fields, Associate Justice

Cc: Tenancy Preservation Program
Court Reporter

Q

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-4572

B.G. MASSACHUSETTS, LLC,

Plaintiff,

v.

BIANCA MARTINEZ-RAMOS,

Defendant.

ORDER

After hearing on March 14, 2025, on the tenant's motion to stop a physical eviction scheduled for March 17, 2025, the following order shall enter:

1. The tenant, with the assistance of an advocate from Committee for Public Counsel Services Children and Family Law Division (CAFL), made a colorable claim that she is disabled and that there is a nexus between the symptoms of her disability and "cause" bases for this case, the physical eviction currently schedule shall be cancelled by the landlord.
2. A representative (Nataly) from the Tenancy Preservation Program (TPP) was present at the hearing and was able to have a preliminary meeting with the

tenant. A referral was effectuated and the tenant is required to work cooperatively with TPP.

3. Ms. Pascall from CAFL has agreed to help refer the tenant to Community Legal Aid and to the Mass. Fair Housing office in Holyoke.
4. The tenant (working with CAFL and TPP) shall pursue her RAFT application.
5. This matter shall be scheduled for a Status Hearing on **March 27, 2025, at 10 a.m.**

So entered this

19th

day of

March

, 2025.

Robert Fields, Associate Justice

Cc: TPP

Riley Pascall, Committee for Public Counsel Services Children and Family Law Division, 1350 Main Street, 6th floor, Springfield MA 01103

Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-2755

CV 25 FORT PLEASANT I, LLC,

Plaintiff,

v.

JORGE ARANGO-CARNERO, et al.,

Defendants.

ORDER

After hearing on March 13, 2025, on the tenants' motion to vacate the judgment, the following order shall enter:

1. **Relevant Procedural History:** By Order dated December 3, 2024, the court set the bond at \$6,938 to be paid by no later than December 15, 2024, and thereafter to pay use and occupancy each month in the amount of \$1,120.
2. The tenants have not paid the \$6,938 bond (hereinafter, "the Bond"), or any portion of it. They have, however, paid the monthly installments for use and occupancy (though not always on time).

3. On February 13, 2025, this matter came before the court on the landlord's motion to dismiss the appeal and issue an Execution based on the tenants' failure to pay the Bond.
4. The tenants failed to appear, and the motion was allowed. An Execution issued for damages and possession on February 18, 2025, and the landlord's have held off on levying on same until the tenants' instant motion was heard by the court.
5. **Discussion:** The tenants assert that they did not receive the hearing notice for February 18, 2025. Though no mail was returned to the court, the court tends to credit the tenants on this assertion as they have never missed a prior court appearance. Thus, moving to the second prong of a motion to vacate the dismissal and the appeal and issuance of the execution, the tenants would have asserted on February 18, 2025, if they had been present---and assert today---that they seek to apply for RAFT funds to pay the Bond.
6. As indicated in the court's Bond Order of December 3, 2024, the court found that the combined income of the tenants' household was \$70,000 with no dependents. It is unlikely that they will be found eligible for RAFT funds.
7. Even if they are found eligible by the RAFT program, the landlord is unwilling to agree to receive RAFT funds as it is unwilling to refrain from evicting the tenants based on the monies that would be covered by RAFT---essentially, dismissing this action.
8. The landlord's understanding of the requirements of the RAFT program comport with the court's understanding and the court shall not require the

landlord to accept RAFT funds for payment of the Bond as it would lead to dismissal of this action¹.

9. **Conclusion:** Based on the forgoing, the tenants' motion to vacate the dismissal of their appeal and issuance of the Execution is denied. There was a stay on the use of the Execution pending the court's decision on this motion in accordance with G.L. c.235, s.23 and that stay is now lifted.

So entered this 19 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

¹ By making this ruling, the court is not saying that it is impossible to utilize rental arrearage funds such as RAFT for payment of a bond entered pursuant to G.L. c.239, s.5. The order and timing of events in this case after the Bond Order and the requirements of the funds themselves, however, do not provide a basis for such utilization of funds for the bond. For example, if the payment of funds from an agency did not require that a landlord dismiss the eviction action for those funds, that might lend itself to a difference ruling relative to payment of a bond.

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-3209

B.G. MASSACHUSETTS, LLC,

Plaintiff,

v.

KENDRA EDWARDS,

Defendant.

ORDER

After hearing on March 13, 2025, on the tenant's motion to dismiss and opposition thereto, the following order shall enter:

1. MCR Property Management is the property manager for the premises and also the "Lessor" of the tenant—as indicated in the parties' lease.
2. B.G. Massachusetts I, LLC is the owner of the subject premises and is the plaintiff in this summary process action.
3. Chicopee Village Townhomes is the name of the housing complex in which the premises are located, and on its behalf that the notice to quit was sent

4. The tenant's argument, citing *Rental Property Management Services v. Hatcher*, 479 Mass. 542 (2018), that B.G. Massachusetts I, LLC, has no standing to bring this summary process action, is distinguishable from that case and is wrong as a matter of law.
5. The motion is denied.
6. The tenant wishes to file and argue motion to dismiss a part of the landlord's claim, arguing that the landlord is prohibited from putting into evidence the tenant's behaviors at a meeting with the landlord that led to her arrest due to an expungement order in that criminal matter.
7. The tenant has until March 26, 2025, to file and serve her motion.
8. The landlord has until April 7, 2025, to file and serve its opposition.
9. A hearing on that motion shall be scheduled for **April 9, 2025, at 9:00 a.m.**
10. An all-day trial shall be scheduled for **April 15, 2025, at 9:00 a.m.**

So entered this 20 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No.

BELLE FRANKLIN, LP,

Plaintiff,

v.

KEVIN KIRKPATRICK, et al.,

Defendants.

ORDER

After hearing on March 14, 2025, on the tenant's motions at which the tenant, Kevin Kirkpatrick, appeared with Lawyer for the Day counsel and the landlord appeared through counsel, the following order shall enter:

1. Given payment from the tenants to the landlord on the day before the hearing (March 13, 2025) of \$1,805 and given the pending nature of the RAFT application the physical eviction now scheduled for March 21, 2025, is cancelled.
2. The RAFT application (# [REDACTED]) is awaiting the landlord's submission and the parties shall all diligently and promptly comply with RAFT's requirements.

3. The landlord may add the costs associated with scheduling and cancelling the physical eviction (now scheduled for March 21, 2025) to the tenant's ledger and shall supply same to Way Finders, Inc. for the RAFT application.
4. The tenants shall pay their rent going forward, beginning in April 2025, timely and in full plus \$100 towards arrearage
5. The tenants' motion to reconsider the issuance of the execution pursuant to Judge Chaplin's order is denied.
6. There shall be a stay on the use of an execution for possession as long as there is compliance with the terms of this order. This stay shall toll the timelines discussed in G.L. c.235, s.23.
7. Once the balance is \$0, this matter shall be dismissed.

So entered this 20 day of March, 2025.



Robert Fields, Associate Justice

Cc: James Mooney, Esq., Lawyer for the Day counsel

Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-CV-9**

MIGDALIA CAMACHO,

Plaintiff,

v.

**KAYLIN LIGON and COMMUNITY BUILDERS,
INC.,**

Defendants.

ORDER

After hearing on March 17, 2205, on the plaintiff's motion for further injunctive relief, at which the plaintiff and the defendant property owner appeared but at which the defendant neighboring tenant Kaylin Ligon failed to appear, the following order shall enter:

1. This motion hearing is continued to the date noted below.
2. The tenant is referred to the Tenancy Preservation Program (TPP). The tenant shall meet with TPP promptly and cooperate with its recommendations. The parties shall provide copies of any and all reasonable accommodations request(s) from the tenant to the landlord to TPP.

3. By May 12, 2025, the landlord shall provide Ms. Camacho and the court with a "report" on the status of Ms. Camacho's place on the Transfer List for a third-floor unit. The report shall include, among other things, the date the tenant was placed on the Transfer List and while redacting the names of others on the list, indicate whether anyone was transferred to a third-floor unit since that date.
4. Kaylin Ligon shall appear at the hearing noted below.
5. The landlord shall bring a witness (or witnesses) from Community Builders, Inc. at the hearing noted below who has personal knowledge of the landlord's efforts to investigate the noise complaints, a result of that investigation, a determination of noise quieting efforts are needed, and what efforts were made to install such noise quieting, etc. Also, a witness who has knowledge of the Transfer List and the status of all third-floor units since the tenant was placed on the list.
6. This matter shall be scheduled for hearing on the plaintiff tenant's motion for further injunctive relief on **May 19, 2025, at 2:00 p.m.**¹

So entered this 20 day of March, 2025.



Robert Fields, Associate Justice

Cc: Tenancy Preservation Program
Court Reporter

¹ NOTE: This date is different than the date discussed at the hearing due to the availability of the judge.

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-4441

KENRIE HAYLES,

Plaintiff,

v.

TAMARA APONTE,

Defendant.

ORDER

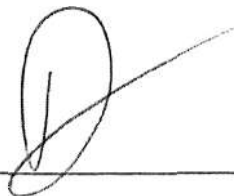
After hearing on March 13, 2025, on the landlord's motion for entry of judgment at which both parties appeared self-represented, the following order shall enter:

1. As a preliminary matter, the parties agree to correct the spelling of the tenant's last name. It is "Aponte" and the record shall be corrected.
2. When the parties entered into a mediated Agreement on December 26, 2024, the tenant agreed to move out on February 1, 2025. This promise to move was based on the fact that at the time, the tenant had found an apartment.
3. That apartment, however, failed the Section 8 inspection and the tenant was unable to relocate. She is currently looking for another apartment with her

Section 8 Voucher. Because the move out fell through as a result of no fault of the tenant, the landlord's motion is denied.

4. There is a pending RAFT application that should pay all outstanding use and occupancy plus court costs. The parties shall diligently comply with the RAFT process including the landlord providing an updated ledger.
5. Being that this is a non-payment of rent matter, the case shall be dismissed upon reaching a \$0 balance.
6. This matter shall be scheduled for a Status Hearing on **May 22, 2025, at 9:00 a.m.**

So entered this 20 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 18-CV-783

LIVINIA OKORIE,

Plaintiff,

v.

ELLISHA WAKLER,

Defendant.

ORDER

This matter came before the court for trial on January 16, 2025, at which both parties appeared with counsel. After consideration of the evidence admitted therein, the following findings of fact and rulings of law and order for judgment shall enter:

1. **Background:** The plaintiff, Livinia Okorie (hereinafter, "landlord") was the owner of the property located at 38 Cambridge Street in Springfield, Massachusetts (hereinafter, "premises") where she rented a unit to the defendant, Ellisha Walker (hereinafter, "tenant") under a Section 8 lease in 2018.

2. The tenant gave notice on May 1, 2018, that she would be vacating the premises by June 1, 2018. When the tenant had not vacated by June 1, 2018, the landlord had her served with a notice to quit for non-payment of rent for June 2018 rent and thereafter commenced a Summary Process action (18-SP-2922). Before the matter was tried in the Summary Process action, the tenant vacated the premises.
3. Possession being moot, the Summary Process action was transferred to this instant Civil Docket matter (18-CV-783) in which the landlord is seeking two months' rent from the tenant totaling \$2,100 (\$1,050 for June 2018 and \$1,050 for July 2018) and the tenant is seeking damages for breach of the warranty of habitability, breach of the covenant of quiet enjoyment, and violation of the security deposit laws.
4. **The Landlord's Claim for Rent:** From at least March 2018 for the remainder of the time she remained in occupancy in mid-July 2018, the tenant's portion of the rent—as calculated by the Section 8 administering housing authority---was \$0. During that time, the housing authority was responsible for the full contract rent; though given the failed housing standards inspections by the housing authority it appears that it withheld the rent. Other than the tenant testifying that the housing authority did in fact withhold its payment of rent to the landlord due to the landlord's failure to make repairs, there was no other evidence admitted on this issue. Whether or not the housing authority withheld its rent payment or not is not a fact that must be determined in this trial.

5. Given that the tenant's portion of the rent for June and July 2018 was \$0, there shall be no award to the landlord for unpaid rent.

6. **The Tenant's Claim; Breach of the Covenant of Quiet Enjoyment:** On April 30, 2018, the premises were inspected by the Amherst Housing Authority as part of its administration of the Section 8 subsidy. The premises were cited for the following conditions of disrepair:

1. There is no working CO detector on the second floor level;
2. CO detector in basement chirping;
3. Hot water temperature dangerously high;
4. Kitchen:
 - a. ceiling surface splitting, [possible water leak from 2nd floor;
 - b. Rear entry door casing broken;
 - c. Left side burners on range not working;
 - d. Oven door handle broken;
 - e. GFI outlet will not reset;
 - f. Dishwasher pressure at kitchen sink very low;
5. Bathrooms:
 - a. Lavatory in first floor bathroom very slow to drain;
 - b. Toilet seat in first floor bathroom loose;
 - c. Tub faucet in second floor bathroom dripping;
 - d. Tub drain in second floor bathroom does not close;
 - e. Toe mold in front of tub peeling away from tub unit;

- f. No stopper in second floor lavatory;

6. Bedrooms:

- a. Torn screen in 7 yr old's room;
- b. Outlet under bunk bed in 7 year old's room loose in junction box;
- c. Window screen in 1 year old's room doesn't fit;
- d. Broken door casing in master bedroom;
- e. Missing screen in master bedroom;
- f. Closet doors in all bedrooms poorly fitting or off tracks.

7. Other interior issues:

- a. Railing bracket at bottom of stairs to second floor broken;
- b. Outlet in second floor hallway loose, does not have cover plate.
- c. Outlet at CB panel in basement tests as hot/ground reversed;
- d. Basement stairs shaky, need bracing.

8. Exterior issues:

- a. Door closer on front screen/storm door bent, preventing door from closing properly;
- b. Weather stripping on front door needs replacement;
- c. Front porch right side railing very loose;
- d. Bottom tread on rear steps has a large hole;
- e. Let side rear step railing loose;

- f. Rear screen door bent, does not properly close.
7. The inspection report required immediate correction on the CO detectors and the temperature of the water. All others would be reinspected on May 21, 2018.
8. On May 2, 2018, the City of Springfield Department of Code Enforcement, Housing Division inspected the premises and caused the water to be curtailed to allow for hot water problem to be remedied, found the furnace faulty and the cellar to be damp with puddling water on the floor.
9. On May 4, 2018, the City of Springfield Building Department Inspectional Services Plumbing Division inspected the premises and cited the owner for the need for a new water heater to be installed (the hot water tank was leaking), for a hot air furnace exhaust to be labeled, exhaust lengthened on outside of house, and for the hot water temperature to be adjusted to safe levels.
10. On the reinspection date (May 21, 2018) for the Amherst Housing Authority, it cited the landlord for her failure to address the second floor CO detector, the left side burners on the range; the oven door handle, the GFI outlet, the water pressure at the kitchen sink, the bathroom drain, the tub faucet drip, the tub drain not closing, the toe mold, the stopper, the outlet in child's bedroom, the loose outlet in hallway, the CB panel, the front screen door, and the rear screen door as all not being corrected.
11. Finally, on June 21, 2018, the City's Plumbing inspector found that the violations cited on May 4, 2018, still existed and no permits had been issued for gas or plumbing.

12. A landlord is liable for breach of the covenant of quiet enjoyment if the natural and probable consequence of his acts or inactions cause a serious interference with the tenancy or substantially impairs the character and value of the premises. G.L. c. 186, s. 14; *Simon v. Solomon*, 385 Mass. 91, 102 (1982). Although a showing of malicious intent is not required, "there must be a showing of at least negligent conduct by a landlord." *Al-Ziab v. Mourgis*, 424 Mass. 847, 851 (1997).

13. The court finds and so rules that the landlord breached the covenant of quiet enjoyment in violation of G.L. c. 186, s. 14 by failing to make many of the repairs cited by the Amherst Housing Authority and the City of Springfield inspections as described above.

14. As such, the tenant shall be awarded statutory damages equal to three months' rent, totaling **\$3,150** plus reasonable attorney's fees and costs.

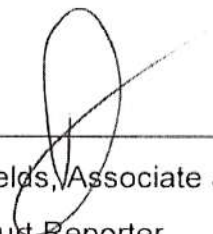
15. **Security Deposit:** The tenant provided the landlord a security deposit at the commencement of the tenancy in the amount of \$1,050. The landlord agrees that she received the security deposit but testified that when the tenant refused to share her social security number for the deposit, the landlord returned the funds back to the tenant.

16. With no other evidence provided regarding the security deposit, the court is unable to determine what happened with the security deposit and, thus, finds and so rules that the tenant failed to meet her burden of persuasion on her claim for violation of the security deposit laws.

17. Property Damage: The tenant is seeking compensation for damage to her personal property that was located in the basement when the hot water tank leaked. The court finds and so rules that the tenant failed to meet her burden of persuasion that the damage to any personal property was as a result of the landlord's negligence and, moreover, the tenant failed to provide sufficient evidence as to the value of the allegedly damaged property. As such, no award for this claim shall be awarded the tenant.

18. Conclusion and Order: Based on the foregoing, an order shall enter awarding damages to the tenant in the amount of **\$3,150** plus reasonable attorney's fees and costs. This is an order and not yet a judgment as the tenant's counsel shall be given 20 days from the date of this order noted below to file and serve a Petition for Attorney's Fees. The defendant shall have until 20 days after receipt of said petition to file and serve opposition thereto. The court shall issue a ruling on the fee petition and enter a final judgment thereafter without need for further hearing.

So entered this 20 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0237

HILLTOWN COMMUNITY DEVELOPMENT CORP.,

Plaintiff

v.

JOHN CONWAY AND JEFF GOSSELIN,

Defendants

ORDER ON APPLICATION FOR
INJUNCTIVE RELIEF

This case came before the court on March 21, 2025 on Plaintiff's application for injunctive relief. Plaintiff appeared through counsel. Mr. Conway appeared self-represented. Mr. Gosselin failed to appear. The property in question is located at 11 South Main Street, Unit C, Haydenville, Massachusetts (the "Premises"). The Premises are part of a residential housing complex known as Village Center Apartments. Plaintiff seeks an order that Mr. Gosselin be barred from the Premises.

In considering a request for injunctive relief, the court evaluates in combination the moving party's claim of injury and chance of success on the merits. If the court is convinced that failure to issue the injunction would subject the moving party to a substantial risk of irreparable harm, the court must then balance this risk against any similar risk of irreparable harm which granting the injunction would create for the opposing party. What matters as to each party is not the raw amount of irreparable harm the party might conceivably suffer, but rather the risk of such harm in light of the party's chance of success on the merits. Only where the balance between these risks cuts

in favor of the moving party may a preliminary injunction properly issue. *See Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609, 617 (1980).

Here, Plaintiff filed a complaint verified by the property manager and offered credible witness testimony regarding the relevant facts. Mr. Conway is the only authorized occupant of the Premises, and the evidence shows that, after being allowed to stay temporarily by Mr. Conway, Mr. Gosselin moved in and refuses to vacate despite Mr. Conway's requests that he leave. Mr. Conway, an 80-year-old veteran, is staying in the VA Hospital and is afraid to return to the Premises.¹

The court finds that Plaintiff has demonstrated a reasonable likelihood of prevailing on the merits of its claim that Mr. Gosselin was a mere licensee of Mr. Conway with no rights of a tenant and that Mr. Conway revoked Mr. Gosselin's license to stay in the Premises. The Court concludes that the failure to grant injunctive relief would cause a significant risk of irreparable harm to Mr. Conway. The risk of irreparable harm to Mr. Gosselin is lessened by the fact that a representative of Veteran's Services indicated that the agency would work to assist Mr. Gosselin, who is also a veteran, find housing.

Accordingly, the following order shall enter as a preliminary injunction:

1. After being served with this order by Plaintiff,² Mr. Conway shall immediately vacate the Premises and shall not return or be present at the Premises.
2. Plaintiff may change the locks to secure the Premises and shall immediately provide a key to Mr. Conway.


¹ Representatives of Veteran's Services and Highland Valley Protective Services appeared in the courtroom in support of Mr. Conway returning to the Premises without Mr. Gosselin present.

² Plaintiff shall arrange to have this order served upon Mr. Gosselin by the police department (in the nature of a trespass notice) or by a deputy sheriff or constable.

3. If Mr. Gosselin fails to vacate voluntarily, Plaintiff may seek the assistance of the police department to assist Plaintiff in having Mr. Gosselin removed from the Premises as a trespasser.
4. Until Mr. Gosselin is removed from the Premises, he shall not abuse or harass Mr. Conway.
5. The fee for injunctive relief is hereby waived.

SO ORDERED.

March 21, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0215

NORTHAMPTON HOUSING AUTHORITY,

Plaintiff

v.

ROSELIN NAZARIO,

Defendant

ORDER ON APPLICATION FOR
INJUNCTIVE RELIEF

This case came before the court on March 21, 2025 on Plaintiff's application for injunctive relief. Plaintiff appeared through counsel. Defendant ("Ms. Nazario") failed to appear. The property in question is located at 81 Conz Street, #302, Northampton, Massachusetts (the "Premises"). Plaintiff seeks an order that Ms. Nazario be barred from the property known as Salvo House pending a levy on execution for possession.

In considering a request for injunctive relief, the court evaluates in combination the moving party's claim of injury and chance of success on the merits. If the court is convinced that failure to issue the injunction would subject the moving party to a substantial risk of irreparable harm, the court must then balance this risk against any similar risk of irreparable harm which granting the injunction would create for the opposing party. What matters as to each party is not the raw amount of irreparable harm the party might conceivably suffer, but rather the risk of such harm in light of the party's chance of success on the merits. Only where the balance between these risks cuts

in favor of the moving party may a preliminary injunction properly issue. *See Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609, 617 (1980).

Here, Plaintiff filed a complaint verified by the property manager and offered credible witness testimony about Ms. Nazario's disruptive behavior that substantially interfered with the peaceful enjoyment of other tenants. At least one neighbor was physically assaulted in the hallway of this housing authority property, and the evidence supports Plaintiff's claim that the Premises are being occupied not by Ms. Nazario, who has been staying in her sister's unit, but instead by her guests who are unknown to Plaintiff. Moreover, the condition of the Premises is unsanitary and poses a significant risk of harm to other residents of the building.

The court finds that Plaintiff has demonstrated a reasonable likelihood of prevailing on the merits of its claim that Ms. Nazario has substantially violated material terms of her lease and that the failure to grant injunctive relief would cause a significant risk of irreparable harm to Plaintiff. The risk of Ms. Nazario suffering irreparable harm is modest given that a judgment for possession is entering for her failure to appear for the first-tier court event in the related summary process case (25SP0648).

Accordingly, the following order shall enter as a preliminary injunction:

1. After being served with this order by Plaintiff,¹ Ms. Nazario shall vacate the Premises within 48 hours.
2. Ms. Nazario may not return to the Premises without further court order.

¹ This order may be served in hand by management if possible; otherwise it may be left at the Premises. Plaintiff shall submit a certificate describing the way service was made.

3. After Ms. Nazario vacates, Plaintiff may change the locks to secure the Premises, provided that it shall reasonably permit Ms. Nazario access during business hours to retrieve personal belongings.
4. If Ms. Nazario fails to vacate voluntarily, Plaintiff may seek the assistance of the Northampton Police Department, whose officers are authorized to assist Plaintiff in having Ms. Nazario removed from the Premises pending further court order.
5. This order does not return possession of the Premises to Plaintiff, and Plaintiff is not authorized to remove Ms. Nazario's belongings without Ms. Nazario's consent or until the levy upon an execution for possession.
6. Ms. Nazario may file an emergency motion to modify this preliminary injunction at any time.
7. The fee for injunctions is hereby waived.

SO ORDERED.

March 21, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-4615

JOHHNY DIEP and BAO DIEP,

Plaintiff,

v.

MIGDALIA COLON,

Defendant.

ORDER

This matter came before the court for trial on February 5, 2025, at which all parties appeared self-represented. After consideration of the evidence admitted therein, the following findings of fact and rulings of law and order for judgment shall enter:

1. **Background:** The plaintiffs, Johnny and Bao Diep (hereinafter "landlords"), own a three-family building located at 83 Beaumont Street in Springfield, Massachusetts. The defendant, Migdalia Colon (hereinafter, "tenant"), lives in the third-floor unit (hereinafter, "premises"), occupying same since November 2018.

2. On or about October 18, 2024, the landlords served the tenant with a 14-day non-payment of rent notice to quit. Thereafter the landlords filed a timely summary process action in this court. The tenant filed an Answer with defenses and counterclaims including claims of Retaliation, Discrimination, Breach of Warranty of Habitability, Violations of the Security Deposit laws, Breach of the Covenant of Quiet Enjoyment, and Violations of the Consumer Protection Act.
3. **The Landlords' Claim for Rent, Use and Occupancy, and Possession:**
The parties stipulate to the *prima facie* elements of the landlords' claim for use and occupancy through trial of \$3,602.¹ The parties further stipulate that the monthly rent is \$1,000. As such, what remains for the Court's adjudication are the tenant's claims and defenses.
4. **The Covenant of Quiet Enjoyment:** The tenant credibly testified about how there is working heat in only two of the four rooms in her unit (her bedroom and the living room). Other than his opening remark that the tenant fabricated everything, the landlord did not specifically dispute or provide any testimony about the sufficiency of the heat in the apartment and the Court finds that there is only working heat in two of the four rooms in the tenant's unit.
5. A landlord is liable for breach of the covenant of Previous quiet enjoyment if the natural and probable consequence of her acts causes a serious interference with the tenancy or substantially impairs the character and value of the premises. G.L. c. 186, s. 14; *Simon v. Solomon*, 385 Mass. 91, 102

¹This amount does not include rent for February 2025 because depending on which party you ask, the rent is due by the 8th or 15th of each month, and thus the rent for February 2025 had not yet become due at the time of trial.

(1982). The Court finds and so rules that the lack of sufficient heat throughout the unit substantially impairs the value of the premises and awards the tenant a statutory claim equal to three months' rent totaling **\$2,700** (\$900 X 3).²

6. **Breach of the Warranty of Habitability:** There were conditions of disrepair at the premises that were cited by the City of Springfield Code Enforcement Housing Division's Notice of Violations dated November 12, 2024. Such included, throughout the unit, cracks in the walls and ceilings and unfinished walls, water damaged walls and ceilings, rotten kitchen sink cabinet, and missing smoke detectors. The extensive damage to the walls and ceilings are likely from a roof leak that caused a significant amount of water to build up and pour through the ceilings and down the walls.
7. Said conditions had a predictable and negative effect on the tenant's use and enjoyment of the premises and constituted violations of the minimum standards of fitness for human habitation as set forth in Article II of the State Sanitary Code. 105 C.M.R. 410.00 et seq. for which the landlord is strictly liable. *Berman & Sons v. Jefferson*, 379 Mass. 196 (1979). It is usually impossible to fix damages for breach of the implied warranty with mathematical certainty, and the law does not require absolute certainty, but rather permits the courts to use approximate dollar figures so long as those figures are reasonably grounded in the evidence admitted at trial. *Young v. Patukonis*, 24 Mass.App.Ct. 907 (1987). The measure of damages for breach

² The tenant also claimed that the landlord violated her covenant of quiet enjoyment due to frequent electric circuit-tripping problems, but the Court was left unable to determine whether it was due to the tenant's improper use of certain electrical outlets or insufficient amperage of the electrical system.

- of the implied warranty of habitability is the difference between the value of the premises as warranted (up to Code), and the value in their actual condition. *Haddad v. Gonzalez*, 410 Mass. 855 (1991).
8. The Court finds that these conditions of disrepair existed for at least three months (Mid-November 2024 to mid-February 2025); from the date of the city's first inspection to the date of completion of repairs by the landlord. The court also finds that the fair rental value of the premises was reduced by 30% as a result of these conditions, and, therefore, the total damages for the breach of the warranty of habitability are **\$900** (30% of \$1,000 per month for three months).
 9. **Security Deposit:** The tenant credibly testified that at the commencement of the tenancy in 2018 she gave the landlord a Security Deposit of \$900 and that thereafter she never received any receipt or any follow up information or funds. Also, the tenant included a claim for breach of the security deposit in her Answer filed on January 9, 2025, which the Court shall treat as a demand for its return from the landlord. See, *Castenholz v. Caira*, 21 Mass. App.Ct. 758 (1986).
 10. The landlord did not dispute this claim and failed to put into evidence any compliance with the requirements of the security deposit laws including but not limited to a failure to provide of a receipt, failure to place the deposit in a proper bank account, and failure to provide interest on the deposit, has violated G.L. c.186, §15B. Accordingly, the landlord is liable for three times the deposit plus the interest calculated by statute at 5% per annum for 4.5

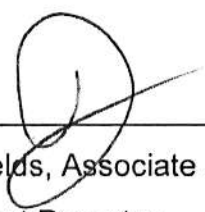
years. Thus, the Court awards tenant **\$2,902.50** [representing \$900 X 3 (\$2700) plus \$900 X 5% time 4.5 years (\$202.50)].

11. Discrimination, Retaliation, and Consumer Protection Act violations:

The tenant was not able to meet her burden of persuasion on these claims.

12. Conclusion and Order: Based on the foregoing, judgment shall enter for the tenant for possession and for **\$2,900.50**. This represents the amount of total damages awarded the tenant (\$6,502.50) MINUS the amount of use and occupancy awarded the landlord (\$3,602).

Entered this 24 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-4859

MICHAEL POPE,

Plaintiff,

v.

PEDRO BERRIOS,

Defendant.

ORDER

This matter came before the Court for trial on February 25, 2025, at which the plaintiff landlord appeared with counsel and the defendant tenant appeared self-represented. After consideration of the evidence admitted therein, the Court issues these findings of fact, rulings of law, and order for entry of judgment:

1. **Background:** The plaintiff, Michael Pope (hereinafter, "landlord") manages a four-unit building located at 69 Earl Street in Springfield, Massachusetts. The defendant, Pedro Berrios (hereinafter, "tenant") resides in apartment #2R

(hereinafter, "premises") and has resided therein since June 2023. The monthly rent is \$1,100.¹

2. On or about September 23, 2024, the landlord sent a rental period notice to quit for no fault to be effective November 1, 2024.² The landlord then commenced this instant summary process action. The tenant filed and served an Answer with counterclaims and defenses which include claims of Retaliation, Breach of the Warranty of Habitability, Breach of the Covenant of Quiet Enjoyment³, Harassment and Defamation, and Violations of the Security Deposit laws⁴.
3. **The Landlord's Claim for Unpaid Rent, Use and Occupancy (Account Annexed) and Possession:** The parties stipulated to the *prima facie* elements of the landlord's claim for unpaid rent and/or use and occupancy totaling **\$6,600** through February 2025. What remains for the Court to adjudicate are the tenant's claims as noted above.
4. **Defamation:** The tenant asserts a claim of defamation arising out of the landlord's text comments in a chat group chat was made up entirely of several long time and close friends of both the landlord and the tenant.⁵ Among other

¹ Prior to the commencement of the trial, the tenant moved for reconsideration of the court's denial of the tenant's motion to dismiss based on the fact that the plaintiff, Michael Pope, is not the owner of the subject premises. The Court denied the motion for reconsideration, again finding that because Mr. Pope is unquestionably the "lessor" under the parties' written lease and Appointment of Agent by the recorded owners of the premises, he has standing to bring this summary process action in accordance with G.L. c.239, s.1. See also, *Rental Property Management Services v. Hatcher*, 479 Mass 542 (2018).

² The tenant testified that he does not recall receiving it but also said that he "probably did" receive it and the Court finds that the landlord has met his burden that the tenant received said notice.

³ The tenant withdrew his claim of breach of the covenant quiet enjoyment at trial.

⁴ The tenant did not pursue his claim for violation of the security deposit laws at trial.

⁵ These several friends have known each other for more than twenty years and socialize and vacation and eat meals with one another.

elements of this claim, the tenant failed to put into evidence that he suffered any harm from these comments and judgment shall not enter for the tenant on this claim.

5. **Retaliation and/or Discrimination for Utilizing RAFT:** Assuming that evicting someone in substantial part because he utilized RAFT funds violates the anti-reprisal and/or anti-discrimination laws of the Commonwealth---as asserted by the tenant here---the Court finds that the tenant failed to meet his burden of persuasion that the landlord took any adverse action against the tenant, including but not limited to bringing this eviction action, based on the tenant's use of RAFT funds to resolve an earlier non-payment of rent matter.
6. Not only did the landlord accept the RAFT funds in the earlier case but also dismissed that case upon being paid by RAFT. Additionally, the landlord asserted other credible reasons for bringing this second eviction case which included the very long delay in the tenant putting the electrical service in his name and his failure to ever put the gas service in his name---both despite the lease's requirement to do so. Moreover, the landlord credibly testified about the tenant's aggressive behavior towards him---some not dissimilar to the tenant's allegations about the landlord in his defamation claim---as a basis for wanting to terminate the tenancy.
7. **Warranty of Habitability:** The tenant failed to meet his burden of persuasion on his claim of breach of warranty of habitability, which is based on his allegations of a rodent infestation at the premises. The landlord has been utilizing the services of D.O.A. Exterminating, a licensed extermination

company in Springfield. Its owner, Matt Kirby, detailed how he has been treating the premises for several years and has found that his treatments have resulted in a successful elimination of rodent infestation---with no signs of infestation for the past year. Mr. Kirby described how he has been dispatched to the tenant's unit for "biting insects" and rodent infestation but has either not found signs of infestation or has been denied access for treatment by the tenant.

8. **Additional Time to Vacate the Premises, G.L. c.239, s.9:** Based on the foregoing, the Court will enter judgment for the landlord for possession and for \$6,600 plus interest and court costs but shall stay its entry in accordance with G.L. c.239, s.9 until May 1, 2025. If the tenant does not vacate the premises by May 1, 2025, the landlord may mark up a motion for entry of judgment in accordance with this order.

So entered this 24 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4653

COPENGER, LLC,

PLAINTIFF

v.

ANGIE ELLIS,

DEFENDANT

FINDINGS OF FACT, RULINGS
OF LAW AND ORDER

This summary process case came before the court on March 26, 2025 for a bench trial. Plaintiff appeared through counsel. Defendant appeared self-represented. Plaintiff seeks to recover possession of residential premises located at 11-15 Fairmount Street, 11-1, Springfield, Massachusetts (the "Premises") from Defendant.

At the outset of trial, the parties stipulated to Plaintiff's prima facie case for possession, including receipt of the notice to quit terminating the tenancy as of July 31, 2024. Defendant did not file an answer and articulated no defenses at trial. Defendant is current in her rent.

Following a colloquy among the parties, and without objection, the court enters the following order:


1. Pursuant to G.L. c. 239, §§ 9 et seq., entry of judgment shall be stayed through May 31, 2025 on the condition that Defendant pay her share of

the rent (currently \$1,027.00), as it may be adjusted by the subsidy administrator from time to time, each month by the fifth beginning in April 2025.

2. If Defendant has not vacated by May 31, 2025, Plaintiff may file a motion for entry of judgment.
3. If Defendant intends to seek a stay of execution following entry of judgment, she must be able to demonstrate a diligent housing search with a written log showing her efforts to locate replacement housing.

SO ORDERED.

March 26, 2025



Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 23-SP-4632**

M & S BLUEBIRD, INC.,

Plaintiff,

v.

CHRISTOPHER PATTEN, et al.,

Defendants.

ORDER

After hearing on March 24, 2025, on the plaintiff's motion to compel discovery, at which the plaintiff appeared through counsel and the defendant appeared self-represented, the motion to compel further responses to the plaintiff's request for documents is allowed consistent with the terms of this order.

1. The response to Documentary Request #1 is non-responsive. The question is not whether the defendant has in his possession documents which support the plaintiff's right to evict the tenant. It asks for documents, if any, that support the defendant's claim that the plaintiff does not have good cause to

evict the defendant. The defendant shall provide a different and more responsive response to this request.

2. Similarly, the response to Documentary Request #2 is non-responsive. The request is for any document, if any, that supports the defendant's defense to the complaint in this matter. The defendant shall provide a different and more responsive response to this request.
3. Documentary Request #5 similarly requests any document, if any, which the defendant intends to rely on at trial in support of his claims/defenses. Other than identifying the "General Release" and the "Settlement Agreement", the remainder of the response is vague and insufficient. If there are documents in addition to the two listed, same shall be listed and provided in further response to this request.
4. Documentary Request #6 #7, #9, #10, #11, #14 and #18 require the same instruction as Documentary Request #5.
5. Documentary Request #13: The last phrase "with an exception to documents produced by plaintiff" and the defendant must attach such documents with his response.
6. Documentary Request #15 asks for documents related to an EXPERT and the answer was non-responsive. The defendant shall provide further response as to whether there are any documents from an EXPERT and, if so, provide same.
7. For all the above, the documents that are identified in the new responses shall be provided by the defendant *in paper form* and identified clearly to

which Document Request(s) they are responsive to by no later than April 11, 2025.

8. The plaintiff's motion to compel further responses to Documentary Requests #12 and #16 are denied due to vagueness of the request.
9. **Defendant Patten's Motion to Compel:** As to Mr. Patten's motion to compel, it did not comply with the required format which must restate the discovery request, provide the plaintiff's response, and state an argument why further response needs to be compelled. Mr. Patten has until April 4, 2025, to re-file his motion to compel and a hearing on same shall be scheduled for **April 18, 2025, at 2:00 p.m.**

So entered this 26 day of March, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 23-SP-1078

B.G. MASSACHUSETTS I, LLC,

Plaintiff,

v.

MADELINE MATEO,

Defendants.

ORDER

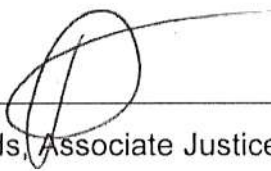
After hearing on March 20, 2025, the following order shall enter:

1. LAR counsel, James Mooney from Community Legal Aid (CLA), appeared on the tenant's behalf and explained that due to difficulties obtaining proper medical documents, the RAFT application timed out. Counsel believes that CLA is now in possession of proper paperwork to assist the tenant with a new RAFT application.¹

¹ The tenant explained that the delay was due to her having not been assigned a psychiatrist by BHN which has finally happened after waiting eight months.

2. The landlord reports that the tenant paid her rent plus \$50 in February 2025, and \$500 in March 2025 (which is \$13 short of rent plus \$50). The tenant will immediately make a payment to the landlord of \$13.
3. Given the tenant's recent payments and the continued assistance provided by CLA with her new RAFT application, and with the Tenancy Preservation Program (TPP) [who was present in the courtroom during the hearing] to see if TPP will open a case, this matter shall be continued further to determine the status of the RAFT application.
4. The tenant shall continue to pay her rent plus \$50 until the balance is \$0.
5. The parties shall cooperate with the new RAFT application.
6. Attorney Mooney's LAR appearance is through the RAFT process and until he files a LAR withdrawal.

So entered this 27 day of March, 2025.


Robert Fields, Associate Justice

Cc: James Mooney, Esq., Community Legal Aid
Bekki Craig, TPP
Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-4575

RONALD and CHRISTINA MOCCIO,

Plaintiff,

v.

DONNA DESMARAIS,

Defendant.

ORDER

This matter came before the court for trial on March 20, 2025, at which the landlords appeared with counsel and the tenant appeared self-represented. After consideration of the evidence admitted therein, the following order shall enter:

1. The parties stipulated to the landlord's claim for a no-fault eviction.
2. The tenant is seeking time to relocate in accordance with G.L. c.239, s.9 and s.10.
3. In accordance with those statutes, judgment shall not yet enter for possession for the landlord at this time and the tenant shall be granted time to continue her diligent search for alternative housing.

4. The landlords offered two additional months and argued that any extension of time under the statute *must* be considered to have begun with the notice to quit. No such language exists in G.L. c.239, s.9 and the landlords are wrong as a matter of law.
5. The tenant is 77 years old and reports that she must limit her search to apartments on the first floor or with an elevator due to a stroke she suffered.¹
6. The landlords' attorney explained on his clients' behalf that they have a grandson who just finished his time in the navy and who is currently in need of housing and they wish to arrange for him to move into the premises.
7. The tenant shall continue to pay her rent during the time that she continues to occupancy the premises and shall be prepared to update the landlord and the court at the next hearing on all of her efforts to relocate.
8. This matter shall be scheduled for a Status Hearing on **June 12, 2025, at 9:00 a.m.**

So entered this 28 day of March, 2025.


Robert Fields, Associate Justice

Cc: Court Reporter

¹ A copy of a letter from her doctor on this issue was provided to the landlord.

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden, ss.

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

NORTHERN HEIGHTS, LP,

Plaintiff,

-v.-

DOCKET NO. 23SP04268

RODNEY JENKINS,

Defendant.

ORDER

This matter came before the court on March 28, 2025 for a hearing on the defendant's motion to stop the move-out scheduled for April 1, 2025 at noon. The plaintiff appeared through its attorney. The defendant appeared and was self-represented.

This eviction case is based on nonpayment of rent. Since it was filed on August 11, 2023, the parties have entered into Agreements to try to resolve the case. After a hearing on September 5, 2024, a judge of this court ordered that judgment would enter for the plaintiff for possession and \$6,934.85 in unpaid rent/use and occupancy and \$240.77 costs. Execution could issue on motion once a RAFT application was decided, if warranted. Judgment entered accordingly on September 9, 2024. The defendant received \$7,000 in RAFT financial assistance, but this did not reduce the arrearage to zero. His eligibility for RAFT financial assistance has been exhausted. On February 13, 2025 the plaintiff filed a motion to issue the execution. A second judge of this court allowed the motion after a hearing and ordered that execution would issue on an amended judgment of \$2,449 in unpaid rent/use and occupancy through March 2025. Execution issued on the amended judgment on March 19, 2025. The plaintiff served by deputy sheriff a forty-eight hour notice that the execution would be used to move the defendant out of the premises on April 1, 2025 at noon.

The defendant filed this motion to stop the move-out on the grounds that he had made payments since the judgment entered and has additional money to pay. He paid \$1,400 on the day of the hearing. This reduced the arrearage to \$1,049 through March.¹ He offered to pay \$1,000 on April 4, 2025 and another \$1,000 by the end of April. The cancellation fee for stopping the move-out would be \$940.

While the plaintiff has worked with the defendant throughout this case and remains willing to do so, there is concern whether the defendant will reach a zero balance and then be able to sustain the tenancy. The defendant reported that his household income has increased because there are two incomes and he has achieved a job with significantly higher pay.

Order

As discussed at the hearing, the following orders will enter:

1. The defendant's motion is **ALLOWED** as follows:
2. The move-out scheduled for April 1, 2025 at noon is **STOPPED**.
3. The plaintiff's attorney agreed to notify the deputy sheriff of this order.
4. The defendant will make the following payments to the landlord:
 - a. \$1,000 on or before April 4, 2025. This will be applied first to the use and occupancy for April 2025 and the balance to the cancellation fee for the April 1 stopped levy.
 - b. \$1,000 on or before April 30, 2025. This will be applied first to the cancellation fee for the April 1 stopped levy and the balance to the arrearage.
 - c. Beginning in May 2025, \$1,000 by the fifth of each month and \$1,000 by the last day of the month. These payments will be applied first to the use and occupancy for that month and the balance to the arrearage until the defendant's account reaches a zero balance.
5. The defendant may pay the arrearage and cancellation fee on a faster schedule than what is outlined in no. 4 above, as his finances allow. However, payments made in a month above his monthly use and occupancy will be applied to the then-existing arrearage and not to the following month's use and occupancy, unless the parties agree otherwise.

¹ There is some confusion whether the monthly rent is \$900 or \$950. The plaintiff understands it to be the former, which is the amount used in the calculations at the hearing.

It is further ordered:

- 6. The parties will appear in court on May 9, 2025 at 2:00 p.m. for a status hearing to ensure compliance with this order and to review the payments made since this order.**

March 31, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden, ss.

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

VERTEX REAL ESTATE, LLC,

Plaintiff,

-v.-

DOCKET NO. 24SP03515

SANDRA ORTEGA,

Defendant.

ORDER

This matter came before the court on March 28, 2025 for a hearing on the defendant's motion to stop execution. The plaintiff appeared through its attorney with property manager Elisha Powers. The defendant appeared with her mother. She is self-represented. Janis Luna of Wayfinders joined the hearing to report on RAFT financial assistance.

This nonpayment of rent case was filed on September 3, 2024. After a hearing before a judge of this court on February 4, 2025, judgment entered for possession and \$4,700 in unpaid rent/use and occupancy with costs and interest on February 6, 2025. Execution issued on February 27, 2025 on the plaintiff's written application. The defendant's motion does not include a forty-eight notice, but the plaintiff reported that a move-out is scheduled for April 3, 2025 at 11:00 a.m.

The plaintiff reported that it was exercising its right not to accept a partial payment of the judgment. The defendant offered to pay three months of the rent/use and occupancy (at \$1,175) now. This would not reduce the arrearage through March to zero. In addition, costs and a cancellation fee (if the move-out were stopped) would remain unpaid. The defendant applied for RAFT financial assistance in March. However, Ms. Luna of Wayfinders reported that the defendant is not eligible for RAFT at this time, based on the last time she received it. She would

be eligible for \$3,307.50 effective April 15, 2025. The court notes that even if this amount were paid on her behalf in April, it would still not reduce the arrearage through April to zero nor would it pay the costs or cancellation fee.

Under the circumstances of this case, the court cannot require that the plaintiff accept partial payments that will not satisfy the judgment. The court does not find grounds to stop the move-out or to grant a further stay of the execution. The defendant's motion is **DENIED**. However, if the defendant can gather the funds to satisfy the judgment, costs and cancellation fee in full, she may contact the plaintiff's attorney to try to negotiate the matter.

March 31, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-2628

MASON SQUARE APARTMENTS I, L.P.,

Plaintiff,

v.

LAUREN A. CHAUSSE,

Defendant.

ORDER

After hearing on March 6, 2025, for a Case Management Conference at which the plaintiff landlord appeared through counsel and the defendant tenant appeared self-represented, the following order shall enter:

1. As a preliminary matter, and by agreement of the parties, the landlord's agents and repairpersons may not enter the tenant's unit if she is not present without her express permission to do so.
2. The court finds that the tenant did not understand that there was a deadline to have filed an Answer and Discovery timely, that she learned she could and should do so when she met with the Lawyer for the Day in court in late

February 2025, and finally that she has colorable claims and defenses to assert.

3. In addition to the court's rulings in its February 13, 2025, which outlined how the tenant included in her December 5, 2024, motion averments regarding very serious conditions of disrepair but then entered into an Agreement of the Parties (Agreement) the very next day (entered into without the benefit of a court mediator) which includes a term in which the tenant "reports" no repairs needed, the court concludes that the self-represented defendant tenant did not appreciate the process that resulted in the Agreement ---nor the process overall for her to assert her claims and defenses arising out of conditions of disrepair (and possibly other claims).
4. The tenant's motion for late filing of Answer and Discovery is allowed.
5. At the request of the landlord, this matter shall be scheduled for a Case Management Conference by the Clerk's Office.

So entered this 1 day of April, 2025.



Robert Fields, Associate Justice

Cc: Michael Doherty, Clerk Magistrate (for scheduling CMC)
Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-3979

JASON GARVULENSKI,

Plaintiff

v.

JENNIFER GARVULENSKI,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR ENTRY
OF JUDGMENT

This no cause summary process case came before the court on March 3, 2025 for a bench trial. Plaintiff appeared through counsel. Defendant appeared self-represented. Plaintiff seeks to recover possession of residential premises located at 132 Taylor Street, Granby, Massachusetts (the “Premises”) from Defendant.

Prior to the start of trial, the parties stipulated to Plaintiff’s prima facie case for possession; namely, Plaintiff owns the Premises and served a 90-day notice to quit which Defendant received, and Defendant has failed to vacate. Based on the credible testimony and the other evidence presented at trial, the reasonable inferences drawn therefrom and the pretrial stipulations, the court finds as follows:

Plaintiff is the brother of Defendant. Their parents purchased the Premises years ago and deeded the house to Plaintiff in 2019. Defendant has lived in the Premises since 2004. Except for a period from approximately Spring 2017 to June 2023, Plaintiff has not resided in the Premises. Currently, Defendant resides there with her three children. Since moving into the home, Defendant has been paying the

utilities and taxes and treating the home as her own. Defendant claims that the parents deeded the home to Plaintiff only so that he could get a home equity loan to pay back taxes and make repairs, which has not been done.¹

The parties have never had a landlord-tenant relationship. Having taken possession of the Premises lawfully but without any meeting of the minds to establish a tenancy, Defendant is merely a tenant in sufferance. Occupants who are tenants at sufferance are entitled to habitable conditions. Defendant claims various conditions of disrepair, including a clogged kitchen sink that backs up, a deck in disrepair, the absence of screens on windows and doors, inadequate snow removal, and debris in the yard. Neither party offered an inspection report or a notice of violations from a code enforcement agency. The photographs do not show conditions that render the home uninhabitable, and Defendant failed to offer sufficient credible evidence that the conditions were substantial code violations or significant defects that impaired the character and value of the Premises or otherwise posed an imminent risk to the health or safety of those residing therein. Therefore, the court finds in favor of Plaintiff on Defendant's claims under theories of breach of warranty, violation of G.L. c. 186, § 14 and G.L. c. 93A.

Regarding her claim for retaliation, Defendant did not establish the elements of either the defense (G.L. c. 239, § 2A) or the affirmative claim (G.L. c. 186, § 18) of retaliation. Family disputes about ownership of the Premises or other property (including the horse barn at the parents' house) do not constitute protected activity

¹ Although not plead, to the extent Defendant is trying to articulate an argument for constructive trust, she did not establish adequate grounds to warrant equitable relief to avoid unjust enrichment of Plaintiff.

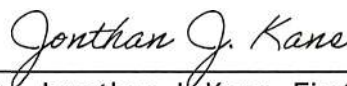
in the context of a summary process case. In fact, it is clear to the court that the dispute between the parties stems directly from their parents' decision to deed the Premises to Plaintiff rather than Defendant. Such family matters are beyond the scope of an eviction case where Plaintiff has established a superior right to possession by virtue of being the only individual on the deed.

Accordingly, based on the findings and in light of the governing law, the following order shall enter:

1. Judgment for possession shall enter for Plaintiff.
2. Execution may issue following the 10-day appeal period after judgment enters on the docket.
3. If Defendant believes that she is entitled to a stay of execution pursuant to G.L. c. 239, §§ 9 et seq, she may file a motion with this court.

SO ORDERED.

April 2, 2025



Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 23-SP-5805

HOLYOKE HOUSING AUTHORITY,

Plaintiff,

v.

KEIZHALEE M. RODRIGUEZ,

Defendant.

ORDER

After hearing on March 20, 2025, at which the plaintiff landlord appeared through counsel and the defendant tenant appeared through LAR counsel, James Mooney, from Community Legal Aid, the following order shall enter regarding the tenant's three motions:

1. The tenant's motions for Relief from Judgment, to Amend the Agreement, and for Filing of a Late Answer, are all premised in part on her claim that the landlord failed to properly calculate her rent when she was unemployed.

2. Given the history of this case and the repeated non-compliance with court agreements, failures to appear at hearings, and a lack of persuasion that the landlord miscalculated the tenant's rent, the above-noted motions are denied.
3. Having denied the motions as noted above, the stay on the issuance of an execution shall remain in place to allow for the parties to engage in a Reasonable Accommodations dialogue. A representative from the Tenancy Preservation Program joined the hearing by Zoom and agreed to assist the tenant with generating a reasonable accommodations request by no later than April 7, 2025.
4. The tenant stated that she has \$1,800 and will pay same tomorrow (March 21, 2025).
5. LAR counsel for the tenant has agreed to request that his agency review this matter for intake for possible additional representation.

So entered this 2nd day of April, 2025.

Robert Fields, Associate Justice

Cc: James Mooney, CLA

TPP

Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 22-CV-0438

ARIANNA KETCHAKEU, PENELOPE HOSLEY,
and KALYANI KORTRIGHT,

Plaintiffs

v.

7Q59 AMHERST, LLC, and XIAN DOLE,
Defendants

ORDER ON CROSS MOTIONS
FOR RECONSIDERATION AND
PLAINTIFFS' PETITION FOR
ATTORNEYS' FEES AND COSTS

Both parties seek reconsideration of the court's findings and rulings in its December 20, 2024 decision following trial. Further, Plaintiffs seek an award of statutory attorneys' fees and costs.

I. Defendant Dole's Motion for Reconsideration (as amended)

Defendant Dole seeks reconsideration of the based on her belief that this court's decision was "not fair" and because the decision has caused her financial stress. She did not articulate a change in circumstances such as newly discovered evidence or information or a development of relevant law, nor did she cite to a particular and demonstrable error in the decision. *Audubon Hill S. Condo. Ass'n v. Cmty. Ass'n Underwriters of Am.*, 82 Mass. App. Ct. 461, 466 (2012). "A motion that simply requests that a judge revisit a decision made previously under the guise of exercising discretion is not a genuine motion for reconsideration." *Commonwealth v. Demirtshyan*, 87 Mass. App. Ct. 737, 741 n. 8. Given that Defendant does nothing more than ask the court to revisit its decision, the motion is denied.

II. Plaintiffs' Motion for Reconsideration

Plaintiffs seek reconsideration based on alleged particular and demonstrable errors in the court's decision after trial; namely, the court's failure to award multiple damages under G.L. c. 93A and its failure to consider the egregious nature of the Defendants' actions when assessing a damages multiplier to the warranty damages.

Regarding the failure to award multiple damages, the court stands by its decision that Plaintiffs are not entitled to a separate award of damages under G.L. c. 93A. A litigant may not have duplicate cumulative recoveries on separate legal theories for the same factual wrongs, and a separate award of damages for unfair or deceptive acts or practices would be duplicative of the court's award of damages under G.L. c. 186, § 14. However, the court reconsiders its decision to the extent that it failed to multiply the amount of Plaintiffs' actual damages. Defendants' unfair or deceptive conduct (as described in the court's factual findings) was willful and knowing. Therefore, Plaintiffs are entitled to two times their actual damages awarded under G.L. c. 186, § 14. Given that the award of actual damages was \$12,400.00, the court reconsiders its order and awards damages in the amount of \$24,800.00.

With respect to Plaintiffs' argument that the court should have trebled the warranty damages instead of merely doubling them,¹ the determination of an appropriate multiplier is discretionary. In assessing the egregiousness of Ms. Dole's behavior, the court considered the totality of Ms. Dole's conduct, the reasons she gave at trial for her actions, and her relative inexperience in managing rental

¹ Presumably, Plaintiffs' argument would also apply to the court's decision upon reconsideration to double but not treble damages under G.L. c. 186, § 14.

property. The court discerns no legal error in its assessment of egregiousness and therefore will not reconsider the damages multiplier.

III. Plaintiffs' Petition for Attorneys' Fees

In calculating a statutory award of reasonable attorneys' fees, the court may use the "lodestar" method. Under the "lodestar" method, "[a] fair market rate for time reasonably spent in litigating a case is the basic measure of a reasonable attorney's fee under State law as well as Federal law." *Fontaine v. Ebtac Corp.*, 415 Mass. 309, 325-26 (1993). However, the actual amount of the attorneys' fees is largely discretionary with the judge. *Linthicum v. Archambault*, 379 Mass. 381, 388 (1979). An evidentiary hearing is not required. *Heller v. Silverbranch Const. Corp.*, 376 Mass. 621, 630-631 (1978).

In determining an award of attorneys' fees, the court must consider "the nature of the case and the issues presented, the time and labor required, the amount of the damages involved, the result obtained, the experience, reputation and ability of the attorney, the usual price charged for similar services by other attorneys in the same area, and the amount of awards in similar cases." *Linthicum v. Archambault*, 371 Mass. at 388-89. See *Heller v. Silverbranch Const. Corp.*, *supra*. at 629 ("the standard of reasonableness depends not on what the attorney usually charges but, rather, on what his services were objectively worth . . . Absent specific direction from the Legislature, the crucial factors in making such a determination are: (1) how long the trial lasted, (2) the difficulty of the legal and factual issues involved, and (3) the degree of competence demonstrated by the attorney"). A judge is not required to "review and allow or disallow each individual item in the bill but [may] consider the

bill as a whole.” *Berman v. Linnane*, 434 Mass. 301, 303 (2001). “No one factor is determinative, and a factor-by-factor analysis, although helpful, is not required.” *Twin Fires Inv., LLC v. Morgan Stanley Dean Witter & Co.*, 445 Mass. 411, 429-430 (2005). Further, “[a]s a rule, where a single chain of events gives rise to both a common law and a [statutory] claim, apportionment of legal effort between the two claims is not necessary ...” *Hanover Insurance Company v. Sutton*, 46 Mass. App. Ct. 153, 176-77 (1999).

Based on counsel’s experience, reputation and ability, the court finds that an hourly rate of \$250.00 is reasonable. With respect to counsel’s request for compensation for 68.9 hours of time spent on this matter, the court notes that Defendant Dole’s conduct in this matter contributed to the amount of hours counsel incurred in this matter. Plaintiffs’ attorney filed three separate motions to compel discovery, and the transfer of the property during litigation prompted Plaintiffs to seek a real estate attachment. Ms. Dole failed to appear for depositions on two occasions. In light of these circumstances and given Plaintiffs’ success on all claims for which statutory attorneys’ fees are available,² the court finds that the expenditure of 68.9 hours to be reasonable.

As for an award of costs of the action, the court reviewed the affidavit of counsel which itemizes each of the costs incurred in this matter. All the costs incurred appear to be reasonable and necessary. The court thus awards costs of \$2,506.14.

² Statutory attorneys’ fees are not awarded for breach of warranty claims; however, the warranty damages were doubled pursuant to G.L. c. 93A, which entitles Plaintiffs to recover attorneys’ fees.

Based on the foregoing, the following order shall enter:

1. Defendant Dole's motion for reconsideration is denied.
2. Plaintiffs' motion for reconsideration is allowed, and, consequently, an amended judgment in favor of Plaintiffs shall be entered in the amount of \$34,550.00.
3. A separate judgment for attorneys' fees and costs in the amount of \$19,731.14 shall enter in favor of Plaintiffs.³

SO ORDERED.

April 2, 2025

By: Jonathan J. Kane
Jonathan J. Kane, First Justice

cc: Court Reporter

³ The award of attorney's fees and costs is without interest. See *Patry v. Liberty Mobilehome Sales, Inc.*, 394 Mass. 270, 272 (1985).

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

FRANKLIN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SU-0009

ERIC MARKS,

Plaintiff

v.

DANIEL CARTHON AND ALYCAR
INVESTMENTS, LLC,

Defendant

SUPPLEMENTARY PROCESS
PAYMENT ORDER

Judgment entered in favor of Plaintiff (the judgment creditor) and against Defendants (the judgment debtors) on November 20, 2024 in the amount of \$35,961.82 in Docket No. 23H79CV000939. Plaintiff subsequently filed the instant supplementary process action. After conducting a supplementary process payment hearing on January 24, 2025, at which the parties appeared with counsel, the court finds that Defendant Alycar Investments, LLC has no liquid assets, and that Defendant Daniel Carthon has no present financial ability to make payments to Plaintiff. The court further finds that Defendants collectively own numerous properties in Massachusetts, some of which are in foreclosure and some of which are encumbered by mortgages and/or restrictions imposed by the court as part of code enforcement cases. It is unclear based on the evidence if there is any equity in the properties.

Accordingly, the following order shall enter:

1. Defendants shall produce to Plaintiff's counsel current mortgage statements and/or current mortgage payoff letters for each property held in the name of either defendant.¹
2. All net proceeds from the sale of any real property owned by one or both Defendants shall be paid directly to Plaintiff's counsel in partial satisfaction of the judgment or, in the alternative, shall be held in escrow by Defendants' counsel pending further order of this court. If Defendants' counsel receives any net proceeds from a sale, he shall notify Plaintiff's counsel promptly and, if no agreement can be reached as to payment out of court, Plaintiff's counsel may file a motion for further order related to release of the escrowed funds.

SO ORDERED.
April 2, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

¹ At the hearing on January 24, 2025, the court ordered that these documents be produced by February 19, 2025. To the extent they were not produced, they shall be produced within ten (10) business days of this order.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 23 CV-1067

NIASIA THOMAS,

Plaintiff

v.

LORD BRIDGE, LLC AND JEFFREY LORD,

Defendants

ORDER ON PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

This case came before the court on January 9, 2025 on Plaintiff's motion for summary judgment. All parties appeared with or through counsel.

The standard for review on summary judgment "is whether, viewing the evidence in the light most favorable to the non-moving party, all material facts have been established and the moving party is entitled to a judgment as a matter of law." *Augat, Inc. v. Liberty Mut. Ins. Co.*, 410 Mass. 117, 120 (1991). See Mass. R. Civ. P. 56 (c). The moving party must demonstrate with admissible evidence, including deposition testimony, answers to interrogatories, admissions, documents, and affidavits, that there are no genuine issues as to any material facts, and that the moving party is entitled to a judgment as a matter of law. *Community National Bank v. Dawes*, 369 Mass. 550, 553-56 (1976). "Any doubts as to the existence of a genuine issue of material fact are to be resolved against the party moving for summary judgment." *Lev v. Beverly Enters-Mass., Inc.*, 457 Mass. 234, 237 (2010).

In the instant case, it is undisputed that the landlord¹ served a no-fault notice to quit terminating the tenant's tenancy effective May 1, 2023. On May 3, 2023, Ms. Thomas left the apartment in a U-Haul truck and went to work. While she was at work, Mr. Lord changed the locks. Ms. Thomas returned to the apartment later that day and could not gain access due to the locked door.

Ms. Thomas contends that she is entitled to judgment as a matter of law because the landlord violated G.L. c. 186, § 14 by "attempting to regain possession of [the] premises by force without benefit of judicial process." Plaintiff also cites to G.L. c. 186, § 15F, which recites that "[i]f a tenant is removed from the premises or excluded therefrom by the landlord or his agent except pursuant to a valid court order, the tenant may recover possession or terminate the rental agreement and, in either case, recover three months' rent or three times the damages sustained by him, and the cost of suit, including reasonable attorney's fees."

Defendants do not dispute the basic facts but assert that Mr. Lord reasonably believed that the subject premises had been abandoned by Ms. Thomas. To establish a defense of abandonment, a landlord must demonstrate a tenant vacated the unit with no intent of returning. Plaintiff asserts that the only elements that led Mr. Lord to conclude that she had abandoned the unit were the removal of some of her belongings, a key left on the counter and the door left ajar. Drawing all permissible inferences in the light most favorable to the non-moving party, the court concludes that a reasonable factfinder could conclude that Mr. Lord was justified in believing Plaintiff had vacated the unit with no intention of returning. The degree to which the door was left open, the

¹ For purposes of this order, the defendants will collectively be referred to as the "landlord."

amount of belongings remaining in the unit and the location and type of key left on the counter are all questions of fact, and all go to the reasonableness of Mr. Lord's conclusion that Ms. Thomas had abandoned the apartment.²

The facts that Ms. Thomas returned to the apartment later the same day to pick up additional items and that she scheduled a cleaner to come the following week are not dispositive of her intent to continue to occupy the unit. A factfinder could find that Ms. Thomas is not a credible witness and could conclude that she had no intention of returning to the unit when she left on the morning of May 3, 2023 despite later remembering that she had left some items behind.³ Likewise, the fact that Mr. Lord apparently did not try to confirm with Ms. Thomas that she had abandoned the unit may be relevant to a determination of whether the landlord can establish a viable defense, but it is a factor that should be left to the factfinder to consider.

Given that all permissible inferences need to be considered in the light most favorable to the non-moving party, the court concludes that Plaintiff is not entitled to judgment as a matter of law. Therefore, Plaintiff's motion for summary judgment is DENIED. The clerk's office shall schedule the matter for a case management conference to select a date for trial.

SO ORDERED.
April 2, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

² Plaintiff emphasizes that, in his deposition, Mr. Lord was clear that the three reasons cited herein were the only factors he considered; however, there is no dispute that Ms. Thomas drove away in a U-Haul truck and that her car was not parked at the property. If Mr. Lord cites these factors at trial to justify his defense of abandonment, it will be a question of credibility for the factfinder to decide given his deposition testimony.

³ Again, the question of what items were actually left behind and the circumstances around the scheduling of a cleaner are matters best left to be considered by the factfinder.

CR

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-CV-274**

DOUGLAS DICHARD,
Plaintiff,
v.
JEFF BROWN,
Defendant.

ORDER



After hearing on April 3, 2025, on the plaintiff's request for injunctive relief at which only the plaintiff appeared, the following order shall enter:

1. The plaintiff asserts that he is the new owner of the subject premises, having purchased same at a foreclosure sale.
2. The plaintiff further asserts that the defendant is the former owner and continues to occupy the premises.
3. By filing this civil action, the plaintiff is seeking an order for access for inspections including those required by his insurance company and to obtain

a "smoke certification" from the Fire Department. The plaintiff is also seeking to change the locks and provide the defendant with a key.

4. The defendant shall not unreasonably deny access to the plaintiff for said inspections upon no less than a 48-hour advance written notice.
5. The plaintiff shall not enter the premises without the defendant's express permission.
6. This matter shall be scheduled for further hearing on **April 10, 2025, at 10:00 a.m.** in person at the Springfield Session of the Housing Court at 37 Elm Street, Springfield, MA.

So entered this 3rd day of April, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-SP-376**

ELIAS MEDINA,

Plaintiff,

v.

JESSICA RODRIGUEZ,

Defendant.

**ORDER of
DISMISSAL**

This matter came before the court for trial and the defendant's motion for late filing of an answer and discovery demand. After hearing, the following order shall enter:

1. As part of the defendant's proposed Answer she asserts that the landlord did not commence this summary process action properly. Upon review of the summons, the court agrees.
2. Uniform Summary Process Rule 2(d) requires that the summons be "properly completed" and that

the reasons for eviction shall be indicated by the plaintiff...with sufficient particularity and completeness to enable a defendant to

understand the reasons for the requested eviction and the facts underlying those reasons.

3. In this instant matter, the plaintiff left the address of the premises blank on the summons and for his reasons for the eviction states "no longer renting".
4. The result is a summons that is incomplete and confusing and one that does not comport with the rule cited above.
5. Based on the foregoing, the case is dismissed without the court needing to address the motion for late answer.
6. The defendant was directed to file a CV matter if she is seeking injunctive relief for matters such as the provision of keys to the house and mailbox as this matter is closed.

So entered this 3 day of April, 2025.

Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0267

SERVICENET, INC.

Plaintiff

v.

GREGORY RING,

Defendant

ORDER

This matter came before the court on short order of notice on April 3, 2025 for a hearing on Plaintiff's verified complaint to enforce eviction pursuant to G.L. c. 186, § 17A, the Community Residency Tenancy Act ("CRTA"). Plaintiff appeared through counsel with two witnesses, Grace Van Schoick, Clinical Team Leader, and Rebecca Pierce, Outreach Supervisor. Defendant did not appear despite notice and an opportunity to appear virtually.

Plaintiff is a Department of Mental Health ("DMH") contractor providing mental health services and housing to persons with mental disabilities at 8-10 Finn Street, Northampton, Massachusetts (the "Premises"). Defendant is a client of DMH and resides at the Premises. Plaintiff served Defendant with a notice of intent to terminate tenancy (a copy of which is attached to the complaint). The notice satisfies the requirements of c. 186, § 17A(c)(2). Following an administrative hearing on January 21, 2025, a DMH hearing officer prepared a written decision and order (a

copy of which is attached to the complaint). The hearing officer found that Defendant is “likely, in spite of reasonable accommodation, to impair the emotional or physical well-being of other occupants, program staff or neighbors,” and concluded that eviction from the Premises was proper under the CRTA. See c. 186, § 17A(c)(4).

Defendant failed to appeal the decision and has failed to accept a transfer to more clinically appropriate housing offered by Plaintiff. Plaintiff filed this action asking this court to enforce the DMH hearing officer’s decision and seeking entry of judgment and issuance of the execution pursuant to c. 186, § 17A(e).

The provisions of the CRTA provide a unique protocol for eviction outside of summary process in limited circumstances involving residents in certain DMH-sponsored residential programs. The statute contemplates use of summary process only in a situation where DMH failed to conduct a timely hearing after request by a provider. The court finds that c. 186, § 17A applies in this case, that DMH responded promptly to Plaintiffs’ request and that a hearing officer conducted a hearing and issued a written decision and order confirming the eviction.

Plaintiff now seeks civil enforcement of DMH decision to enforce the eviction with entry of judgment and immediate issuance of the execution. The court accepts the facts set forth in the verified complaint as true. There was nothing offered in opposition to the complaint or the testimony of witnesses. Plaintiff has a bed waiting for Defendant in an appropriate group home. Plaintiff will coordinate with the Hampshire County Sheriff’s Department, a crisis team and the local police to arrange to transport Defendant to the new facility. The court finds that Plaintiff has demonstrated compliance with the statutory requirements, including taking steps to

assist Defendant in securing alternative housing in the least restrictive setting that is appropriate and available.

Accordingly, Plaintiff's motion is ALLOWED. Pursuant to G.L. c. 186, § 17A, the DMH hearing officer's February 3, 2025 decision shall be enforced as follows:

1. Judgment for possession only shall enter in favor of Plaintiff.
2. Execution shall issue immediately.
3. Plaintiff may levy on the execution immediately.¹

SO ORDERED.

April 4, 2025

By: Jonathan J. Kane
Jonathan J. Kane, First Justice

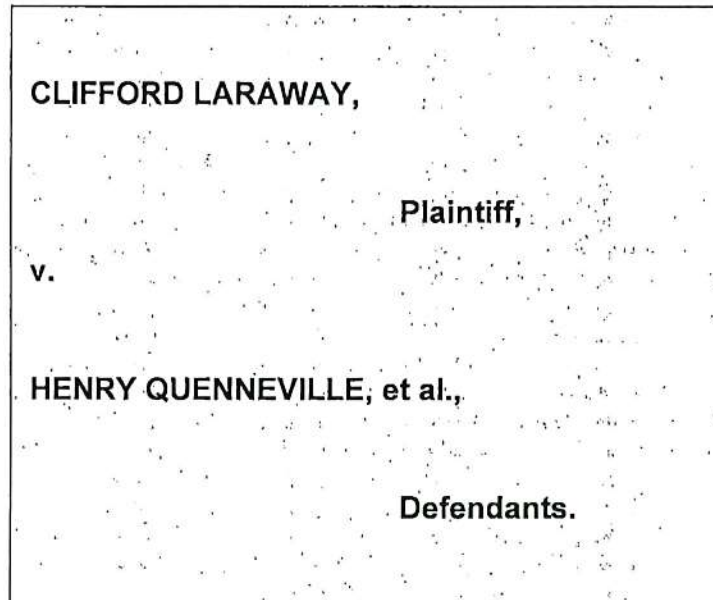
cc: Court Reporter

¹ Because this case lies outside of summary process, there is no requirement for Plaintiff to serve a 48-hour notice of levy on the execution as would be required pursuant to G.L. c. 239, § 3.

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-5088**



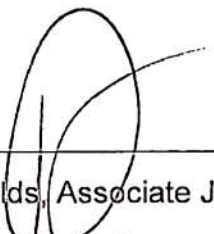
ORDER of DISMISSAL

After hearing on March 6, 2025, on the tenants' motion to vacate the default, the following order shall enter:

1. The tenants met their burden of persuasion on their motion to vacate the default both for an understandable reason for being late for the Tier 1 event and also the viability of their claims and defenses.
2. Accordingly, the default shall be vacated.
3. One of the defenses/claims being asserted by the tenants is the inconsistency between the no-fault notice to quit and the summons which states it is for both non-payment of rent and for cause (smoking in house).

4. Based on these discrepancies and inconsistencies, this summary process action is hereby dismissed.

So entered this 7 day of April, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT DEPARTMENT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

DOCKET NO.: 25-CV-0291

PHILIP RONCARATI,)
 Plaintiff,)
))
v.)
))
VC REAL ESTATE,)
 Defendant)
_____)

DOCKET NO.: 25-CV-0292

ANDRE LATNEY,)
 Plaintiff,)
))
v.)
))
VC REAL ESTATE,)
 Defendant)
_____)

DOCKET NO.: 25-CV-0293

MARCIAL ALICEA,)
 Plaintiff,)
))
v.)
))
VC REAL ESTATE,)
 Defendant)
_____)

ORDER

These matters came before the court on April 7, 2025 for hearings on the plaintiffs' motions for injunctive relief. Each of the plaintiffs appeared and the defendant appeared through counsel.

The plaintiffs reside at 84 Oak Grove Avenue, Springfield, Massachusetts (the "Premises"). Each rents a bedroom with shared living spaces. The City of Springfield Code Enforcement Housing Division condemned the Premises on April 1, 2025 and ordered all occupants to vacate. Pursuant to the State Sanitary Code, upon an order of condemnation, "the owner shall provide comparable, suitable housing for the occupant for the following time period, or whichever is shortest: (1) The remaining

term of the lease or rental period; (2) Such time as the residence is deemed suitable for habitation by the board of health; (3) Such time as the occupant finds alternative, permanent housing and voluntarily terminates tenancy.” 105 Code Mass. Regs. 410.900(E).

The Court finds that the defendant is unwilling or unable to comply with the State Sanitary Code or court orders regarding the provision of alternative housing following an order of condemnation. This finding is based on the representations made at the hearing today, and it is also based on the fact that the defendant defied a previous court order regarding alternative housing. On April 3, 2025, the court ordered that the defendant provide alternative housing to two other occupants of the Premises, Jordan Dukes (Docket No. 25CV0273) and Patrick McCarthy (Docket No. 25CV0283).¹ Contrary to the court’s orders to provide housing for seven nights with a \$30.00 per day stipend if the hotel did not have kitchen facilities, the person in charge of the Premises paid for only one night in a hotel and has been unwilling to comply further.

None of the plaintiffs has a place to live at this time and may be rendered homeless without alternative housing. After considering the standard for injunctive relief as set forth in *Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609 (1980), the court rules that the defendants are entitled to the relief sought. Accordingly, in light of the circumstances, the court finds it appropriate and necessary, pursuant to the equitable powers granted to it under G.L. c. 111, § 127I, to appoint a receiver on an emergency and limited basis to ensure that the court’s orders regarding alternative housing are fulfilled. The appointment of a limited receiver is in the best interests of the occupants.

In order to secure payment of any costs incurred with respect to the provision of alternative housing, the receiver shall have a lien with priority over all other liens or mortgages except municipal liens.² The next receiver on the list willing to accept the appointment is Witman Properties Inc.

The following order shall enter:

1. The receiver shall provide each of the plaintiffs in this case, as well as Mr. Dukes and, if requested, Mr. McCarthy, alternative housing in a local hotel for the time period set forth in the State Sanitary Code. The hotel shall be located near public transportation routes. The initial reservation shall include the night of April 7, 2025 and continue through and including the night of April 15, 2025.

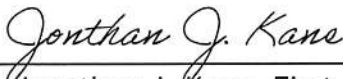
¹ The court should consolidate all five cases regarding the condemnation of the Premises.

² Pursuant to statute, no such lien shall be effective unless recorded in the registry for the county in which the property is located.

2. If the hotel does not have kitchen facilities, the receiver shall provide a daily stipend of \$30.00 to each of the defendant through April 15, 2025 (a total of \$270.00 per defendant living without kitchen facilities).
3. The defendant must provide each of the defendants, as well as Mr. Dukes and Mr. McCarthy, access to their rooms during daylight hours only for the purposes of recovering personal items, including medications, clothing and the like. Initially, the defendant shall provide access on April 7, 2025 and thereafter as reasonably required pending further court order.
4. The fee for injunctive relief is hereby waived.
5. Further hearing consistent with this order shall be scheduled in the Springfield session on April 14, 2025 at 2:00 p.m. The hearing shall be in-person; however, a representative of the receiver may appear by Zoom if receiver's counsel is present at the hearing. At this time, the court may consider expansion of the receivership if the defendant has not been compliant with court orders or cooperative with the plaintiffs or the receiver, and if the court is convinced that the code violations will not be corrected promptly unless done by the receiver.

SO ORDERED.

April 7, 2025



Hon. Jonathan J. Kane, First Justice
Western Division Housing Court

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-5140

STANLEY J. BRZOSKA, JR. AND
SUSAN L. BRZOSKA

Plaintiffs

v.

JANICE LYNN PAGANO,

Defendant

ORDER ON DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT

This case came before the court on March 13, 2025 for Defendant's motion for summary judgment. The parties were represented by counsel.

The standard for review on summary judgment "is whether, viewing the evidence in the light most favorable to the non-moving party, all material facts have been established and the moving party is entitled to a judgment as a matter of law." *Augat, Inc. v. Liberty Mut. Ins. Co.*, 410 Mass. 117, 120 (1991). See Mass. R. Civ. P. 56 (c). The moving party must demonstrate with admissible evidence, including deposition testimony, answers to interrogatories, admissions, documents, and affidavits, that there are no genuine issues as to any material facts, and that the moving party is entitled to a judgment as a matter of law. *Community National Bank v. Dawes*, 369 Mass. 550, 553-56 (1976). "Any doubts as to the existence of a genuine issue of material fact are to be resolved against the party moving for summary judgment." *Lev v. Beverly Enters-Mass., Inc.*, 457 Mass. 234, 237 (2010).

The issue before the court is whether Plaintiffs are entitled to recover possession of 779 Main Road, Granville, Massachusetts (the “premises”). See G. L. c. 239, § 1 (“the person entitled to the land or tenements may recover possession”). A plaintiff may bring a summary process action to evict a tenant and recover possession of a residential rental property only if the plaintiff is the owner or lessor of the property. See *Rental Property Management Services v. Hatcher*, 479 Mass. 542, 546 (2018). Here, it is uncontested that the deed to the premises was in the name of Little Birch, Inc. at the time the case was filed and not in Plaintiffs’ names.

It is also undisputed that Little Birch, Inc.’s corporate existence was terminated more than three years ago, and that Plaintiffs were the sole shareholders, officers and directors of the corporation.¹ For purposes of ruling on Defendant’s motion for summary judgment, the court does not need to decide if Plaintiffs are, in fact, the owners of the subject property by virtue of the dissolution of the corporation more than three years ago.² The court concludes that genuine issues of material fact exist as to whether Plaintiffs are “lessors” as that term is used in *Hatcher*.

Although characterized by Defendant as merely “property managers” at most, Plaintiffs are clearly not strangers to the landlord-tenant relationship (as was the person commencing the eviction case in *Hatcher*). Viewing the evidence in the light most favorable to the non-moving party, Plaintiffs have established, through Ms. Brzoska’s

¹ The court notes that Plaintiffs did not file a written opposition and the affidavit of Susan L. Brzoska until after business hours on the night prior to the hearing on this motion, despite Plaintiff’s filing of the motion on January 16, 2025. Plaintiffs did not offer an adequate explanation for this delay; nevertheless, Ms. Brzoska’s affidavit was considered by the court for purposes of this order.

² See, e.g., *Cumington Realty Assocs. v. Whitten*, 239 Mass. 313, 325 (1921) (“It is settled that upon dissolution, all debts having been paid and discharged and no receiver having been appointed, the corporation’s property of every description then belongs to the different stockholders as tenants or owners in common.”)

affidavit, sufficient facts for a factfinder to conclude that Plaintiffs are the lessors of the premises and therefore entitled to bring a summary process action to recover possession. Accordingly, Defendant's motion for summary judgment is DENIED.

SO ORDERED.

April 9, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-3516**

GUARDIAN PROPERTY MANAGEMENT,

Plaintiff,

v.

**NICOLE MARTIN-BILADEAU and THOMAS
BILIDEAU,**

Defendants.

ORDER

After hearing on April 7, 2025, the following order shall enter:

1. G.L. c.239, s.9 states in pertinent part:

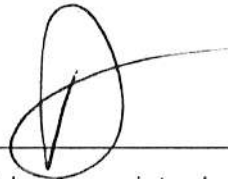
a stay or stays of judgment and execution may be granted, as hereinafter provided, for a period not exceeding six months or for periods not exceeding six months in the aggregate, or, for a period not exceeding twelve months or for periods not exceeding twelve months in the aggregate in the case of premises occupied by a handicapped person.

2. The tenant's eldest daughter is disabled ("handicapped person").
3. The tenant explained that she did not generate a housing search log because she is limited to looking only in her town of West Hatfield or Hatfield for

housing until after the school year and there is only one location she can apply to (at Robinson Apartments). After the school year, however, she can broaden her search.

4. Based on the statute and the circumstance of this matter, the tenant shall have until July 1, 2025, to vacate her premises. For each month that she is in occupancy she must pay her rent in full and timely.
5. The landlord may file a motion for issuance of the execution---the judgment having already entered by Judge Kane's order dated November 25, 2024---if the tenant fails to pay her rent timely or fails to vacate by July 1, 2025.

So entered this 9 day of April, 2025.

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a horizontal line extending to the right.

Robert Fields, Associate Justice

Cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-SP-267**

PAMELA HARLOW,

Plaintiff,

v.

TARA GAGNON,

Defendant.

ORDER

This matter came before the court for trial on April 7, 2025, at which the landlord appeared with counsel and the tenant appeared self-represented. After consideration of the evidence admitted at trial, the following findings of fact, rulings of law, and order for judgment shall enter:

1. **Background:** The plaintiff, Pamela Harlow (hereinafter, "landlord") owns a six-unit dwelling in Easthampton, Massachusetts. The defendant, Tara Gagnon (hereinafter, "tenant") rents one of the units located therein at 2 Pleasant Green West (hereinafter, "premises") and has resided there since 2015.

2. On or about October 29, 2024, the landlord had the tenant served with a rental period termination for no-fault, effective December 1, 2024. The landlord thereafter commenced a summary process action. The tenant filed an answer with defenses and counterclaims arising out of conditions of disrepair at the premises.

3. The Landlord's Claim for Possession and Rent: Prior to the commencement of the trial, the parties stipulated to the landlord's *prima facie* case for possession and for \$1,250 in unpaid rent (April 2025 rent). What remains for adjudication by the court are the tenant's defenses and counterclaims relating to alleged conditions of disrepair.

4. The Tenant's Claim of Breach of the Covenant of Quiet Enjoyment: The tenant argued that the landlord failed to make repairs to several items at the premises, including some of the items found to have existed by the undersigned judge in the Court's last trial between the parties in a written decision dated April 11, 2024. The tenant, however, failed to meet her burden of proof on those claims. Though there were conditions of disrepair listed in the Court's earlier trial decision, the tenant failed to meet her burden of proof on this claim, failing to provide the court with a sufficient record to determine when the repairs were made and to which items. As to the radiator in the bathroom that still has no cover, it is not sufficiently clear whether a cover is required.¹

5. The tenant also asserts that the landlord's texting communication about the rent being paid on time is a form of harassment in violation of the covenant of quiet enjoyment. After review of the texts between the parties regarding rent, the Court does

¹ The Court's earlier decision cited the landlord for not repairing radiator covers (other than the one in the bathroom) that were in disrepair.

not adopt the tenant's conclusion and finds that the landlord's communication regarding rent is not harassment and do not violate the covenant of quiet enjoyment.

6. That all said, on or about August 24, 2024, the tenant texted the landlord regarding sounds she was hearing inside the wall of her bedroom. She provided the landlord as part of her text a video with sound and indicated that she believed the "animal was digging its way thru my bedroom wall." Two days later that landlord texted that she would 'get someone there' to look into it. Two weeks later, having not heard from the landlord or any agent on her behalf, the tenant called the landlord at 1:00 a.m. on September 6, 2024, very panicked that many bees had infiltrated her bedroom. The landlord dispatched an exterminator on September 9, 2024, who sprayed the nests and advised the tenant and the landlord that the process will take two weeks to kill all the bees and their yet-to-be-hatched larva. On or about September 24 and 25, 2024, the landlord removed the bee nests and patched up the hole in the ceiling.

7. The landlord's husband testified that within a couple of days after his wife's receipt of on August 24, 2024, video with audio of the noise in the tenant's walls/ceiling, he walked around the outside of the premises and seeing a hole in the fascia guessed that a squirrel or another type of animal had entered the attic above the tenant's bedroom. The landlord nor her husband nor any agent on their behalf inspected the inside of the tenant's unit. Two weeks later the landlord had yet to address even the incorrect circumstance of an animal in the attic when the landlord received the panicked middle-of-the-night call from the tenant regarding bees.

8. A landlord is liable for breach of the covenant of quiet enjoyment if the natural and probable consequence of her acts causes a serious interference with the tenancy

or substantially impairs the character and value of the premises. G.L. c. 186, s. 14; *Simon v. Solomon*, 385 Mass. 91, 102 (1982). Although a showing of malicious intent is not required, "there must be a showing of at least negligent conduct by a landlord." *Al-Ziab v. Mourgis*, 424 Mass. 847, 851 (1997). In this instance, the Court finds the landlord's acts and omissions were knowing and inappropriate and rule that the landlord breached the tenant's covenant of quiet enjoyment by failing to more responsibly and thoroughly investigate and attend to the tenant's complaint about infiltration of an animal in her walls/ceiling.

9. The court credit's the landlord's husband's testimony that he walked around the outside of the premises and reached his conclusion that an animal had gotten into the attic. The landlord's failure to ever investigate the inside of the tenant's unit---specifically her bedroom walls and ceiling---and also his failure to more promptly address even his incorrect conclusion of an animal in the attic---breached the tenant's covenant of quiet enjoyment. Though the landlord addressed the bees thereafter, it does not undo her willful and knowing failure to more responsibly investigate the problem and treat it properly more promptly. The tenant suffered from that malfeasance, sleeping for weeks on her couch and being extremely concerned about her son who is allergic to bees and her young daughter who was understandably deeply frightened.

10. Having found a breach of the covenant of quiet enjoyment, the Court hereby awards the tenant three months' rent in accordance with G.L. c.186, s.14, totaling \$3,750.

11. **Breach of the Warranty of Habitability:** The tenant testified about a leak in the basement that was caused by the disconnection of her washing machine from the hook-up drain (which she promptly cleaned up herself) but was unable to substantiate that said leak was the fault or due to the negligence of the landlord. Accordingly, no breach of warranty of habitability damages shall be awarded.

12. **Conclusion and Order:** Based on the foregoing, and in accordance with G.L.c.239, s.8A, judgment shall enter for the tenant for possession and for \$2,500 in damages. This represents the damages award of \$3,750 for the tenant minus the amount of outstanding rent of \$1,250.

So entered this 9th day of April, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4253

SOUTHWICK HOUSING AUTHORITY,

Plaintiff

v.

WILLIAM DOWD,

Defendant

ORDER

This case came before the court on April 10, 2025 on Plaintiff's motion for entry of judgment.¹ Plaintiff appeared through counsel. Defendant William Dowd ("Mr. Dowd") appeared self-represented. After hearing, the court finds that Mr. Dowd substantially violated a material term of the stipulation of the parties entered on December 13, 2024 by permitting Christy Marshall to live or stay in his unit in violation of the terms of his lease. Mr. Dowd admitted as much; however, he claims that Ms. Marshall is there as his caregiver. Mr. Dowd states he is 83 years old and requires assistance with some daily activities.

In light of the foregoing, the following order shall enter:

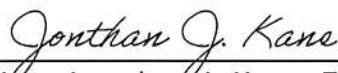
1. Judgment for possession shall enter in favor of Plaintiff.

¹ The stipulation required Plaintiff to include a detailed exhibit list with dates and times of any violation. Plaintiff failed to include such a list; however, Defendant did not register an objection, and the court let the hearing proceed despite the defect in notice.

2. Execution shall not issue -- and the time for issuance and/or use of the execution under G.L. c. 235, § 23 shall be tolled -- until further court order.
3. A referral has been made to Tenancy Preservation Program ("TPP"), a representative of which was present in the courtroom for the end of the hearing. Mr. Dowd shall cooperate with TPP and shall follow its recommendations. If he needs in-home care, TPP may be able to assist him in finding a PCA through an agency that assigns PCAs. He may not have Christy Marshall as his PCA without written approval of Plaintiff.
4. Mr. Dowd shall not permit Ms. Marshall to reside in his unit or to stay there beyond the maximum allowance of 21 days within a 12-month calendar year. The court finds that she has already exceeded the maximum allowance in 2025.
5. Upon material breach of this order, Plaintiff may file a motion to issue the execution, and the court shall conduct an evidentiary hearing. No such motion shall be filed before May 1, 2025 to allow Mr. Dowd an opportunity to work with TPP to find a PCA.
6. This case will dismiss automatically on December 1, 2025 if not brought forward for hearing prior to that date.

SO ORDERED.

April 10, 2025


Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-3868**

JOSEPH and STEPHANIE WOHLERS,

Plaintiffs,

v.

LEON SMOLA,

Defendant.

ORDER

After hearing on April 3, 2025, on the tenant's motion for additional time before having to vacate the premises, the following order shall enter:

1. The parties entered into an agreement at the Tier 1 event on December 2, 2024, that the tenant would vacate the premises by March 1, 2025 ("Agreement").
2. The tenant has been diligently applying to many apartments and apartment complexes and is currently on various waiting lists. Despite his efforts, there is no alternate housing on the near horizon.

3. The tenant is 60 years old and is disabled (receiving SSDI) and is by the landlord's report on the record an "ideal tenant" who always pays his rent.
4. Pursuant to G.L. c.239, s.9, the tenant is eligible for having up to twelve months to relocate. Though the tenant agreed to move out within three months in the Agreement, he states today that he did not fully appreciate that he could seek more time under the law at the time of signing into the Agreement.
5. Landlord's counsel explained that his client is interested in selling the 4-unit property and may be hindered in its sale by having a tenant who pays a "low rent". That said, counsel did not have any witness to testify about that assertion at the hearing.
6. A representative from the Tenancy Preservation Program (TPP) was present at the hearing and agreed to meet with the tenant.
7. The tenant has had a total four months since the Agreement. He always pays his rent and is an ideal tenant. The tenant is 60 years old and disabled, has nowhere to go if evicted and agrees to work with TPP to ascertain possible resources to assist with housing search.
8. The landlords' counsel now says the landlords are shifting from renovating the premises (the original basis for the no-fault eviction) to selling the premises---which is four-unit rental property.
9. Based on the above, the court shall extend the tenant's vacate date and shall schedule this matter for a Status Hearing to provide the landlords with the opportunity to be heard regarding their plan to sell the premises and how

those efforts would either be thwarted by the tenant continued occupancy or how they might allow for the necessary preparation and access to show the premises simultaneously with the tenant's continued and diligent efforts to relocate.

10. In the meantime, the tenant shall continue to pay his rent in full and timely while he continues to occupy the premises.

11. The tenant shall also work cooperatively with TPP>

12. This matter shall be scheduled for a Status Hearing on **April 24, 2025, at**

10:00 a.m.

So entered this 10th day of April, 2025.



Robert Fields, Associate Justice

Cc: TPP

Court Reporter

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-5162

PHYLISS WOOLF,

Plaintiff,

v.

CAROLE MEYER,

Defendant.

ORDER

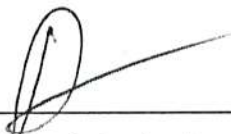
After hearing on April 7, 2025, at which the plaintiff landlord appeared through counsel and the defendant tenant appeared self-represented and accompanied by the Guardian Ad Litem Edward Bryant (G.A.L.), the following order shall enter:

1. **Background:** This is a no-fault eviction action. On the date of the February 3, 2025, Tier 1 event, the court held a hearing on the tenant's daughter's motion to intervene. That same day, the court issued a ruling that denied the daughter's motion to intervene, struck the timely-filed Answer with Discovery Demand without prejudice and ordered the appointment of a G.A.L. for the tenant.

2. Unfortunately, it took 7.5 weeks for the appointment of the G.A.L., Edward Bryant. The G.A.L. immediately met with the tenant and diligently began his investigation into this matter and filed a report with the court.
3. **Discussion:** The G.A.L. is making attempts to secure a trial attorney for the tenant but has not yet met with success. He also investigated the claims asserted in the Answer that was filed with the court and believes that the tenant has colorable claims and defenses and recommends treating the Answer and Discovery Demand already filed and served as her Answer---especially given that she signed the Answer and Discovery Demand.
4. The landlord's counsel highlighted the need for this matter to not have unnecessary delays and explained that the landlord resides in the adjacent unit and due to her own health issues is eagerly looking to move family into the tenant's unit so that they can provide necessary care to the landlord so that she can remain at home as she ages.
5. In the interest of moving this case along, the court shall consider the Answer and Discovery Demand previously *and timely* filed and *signed by the tenant*, which was previously stricken by the court, as hereby reinstated.
6. The landlord shall have until April 25, 2025, to serve her responses to said discovery and provide copies of said responses to the tenant and the G.A.L.
7. The landlord shall have until April 25, 2025, to propound discovery on the tenant with a copy provided to the G.A.L.
8. The tenant shall have until May 9, 2025, to respond to said discovery and the G.A.L. is asked to assist the tenant in said responses.

9. The G.A.L. is requested to continue to engage in the investigation authorized and described by the court's February 3, 2025, order---with a priority on securing the tenant trial counsel---and to submit a next report by May 15, 2025.
10. The request by the landlord's attorney to receive a copy of the G.A.L.'s first report is allowed and the G.A.L. is requested to send a copy to the landlord's counsel. There shall be a Protective Order regarding this report and the landlord's counsel may not share the contents of the report with anyone outside of this litigation without advance leave of court. Subsequent G.A.L. reports shall be filed directly with the judge and landlord's counsel may request a copy of same from the judge as each such report is filed.
11. This matter shall be scheduled for a Case Management Conference with the undersigned judge on **May 19, 2025, at 10:00 a.m.**

So entered this 10th day of April, 2025.



Robert Fields, Associate Justice
Cc: Ed Bryant, Esq., G.A.L.

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-3209

B.G. MASSACHUSETTS I, LLC,

Plaintiff,

v.

KENDRA EDWARDS,

Defendant.

ORDER

After hearing on April 9, 2025, the following order shall enter:

1. On March 27, 2025, the tenant filed a pleading entitled, Motion to Dismiss Under Violation of G.L. c.276, s.100A and 14th Amendment Due Process.
2. Essentially, the tenant is seeking an order prohibiting the landlord from putting in evidence anything arising out of an incident at or near the landlord's office which resulted in a criminal complaint against the tenant *because* the criminal records from that event have been sealed.

3. The for-cause claims in this eviction matter are limited to those incidents described in the Notice to Quit dated June 17, 2024, between April 18 through June 11, 2024.
4. As such, incidents alleged after June 11, 2024, making a ruling on whether or not G.L. c.276, s.100A and 14th Amendment Due Process require a ruling. No evidence of arising out of that event is relevant nor permitted in the trial now scheduled for next week, on April 15, 2025.

So entered this 14 day of April, 2025.



Robert Fields, Associate Justice
Cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden, ss.

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

KENQUAD LIMITED PARTNERSHIP,

Plaintiff,

-v.-

DOCKET NO. 25SP00225

MONICA SCHNEIDER,

Defendant.

ORDER

This matter came before the court on April 11, 2025 for a hearing on the defendant's motion to stop the move-out scheduled for April 16, 2025 at 11:00 a.m.¹ The plaintiff appeared through its attorney with assistant property manager Lurdes Morales. The defendant appeared and was self-represented. Bekki Craig of the Tenancy Preservation Program was present at the hearing. She had just met Ms. Schneider before the hearing. Janis Luna of Wayfinders joined the hearing to report on RAFT.

This eviction case is based on non-payment of the tenant portion of the project-based MRVP rent (\$511 per month). The defendant owes \$6,300 in unpaid rent/use and occupancy through April 2025 and \$251.30 costs. She agrees that the last time she made any payment was in August 2024. If the move-out were cancelled, she would be responsible for the cancellation fee of \$700. She does not have any money to offer at this time. Ms. Luna of Wayfinders reported that the defendant does not have a RAFT application pending at this time. An earlier RAFT application timed out on January 25, 2025.²

¹ The defendant's motion was scheduled for hearing on April 10, 2025 but it was denied because the defendant did not appear. It was rescheduled for April 11 because of the emergency nature of the motion.

² Because this tenancy is subsidized by the project-based Massachusetts Rental Voucher Program, the defendant would have to show hardship/good cause for failing to pay her portion of the rent. If she were found eligible for

Order

After hearing, the defendant's motion to stop the move-out is **DENIED**. There is a substantial arrearage owed and the defendant has no money to offer toward the arrearage, costs or cancellation fee if the move were stopped. G.L. c. 239 §9. There is no pending RAFT application so that G.L. c. 239 §15 does not apply.

The deputy sheriff may proceed with the move-out as scheduled for April 16, 2025 at 11:00 a.m.

April 14, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

RAFT, Wayfinders could pay up to six months of the tenant portion plus costs. This would pay less than half of the arrearage and the tenant would have to make a payment plan for the balance.

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-SP-602**

VIDHYADHAR MITTA,

Plaintiff,

v.

JAMES and RANADA MURRAY,

Defendants.

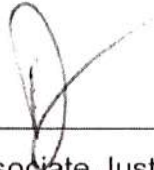
ORDER

After hearing on April 11, 2025, at which both parties appeared through counsel, the following order shall enter:

1. For the reasons stated on the record, citing an earlier decision of the Court with a very similar notice to quit, the motion to dismiss is allowed due to the equivocal nature of the notice is ALLOWED and the landlord's claim for possession is dismissed without prejudice. See, *Zbylut Realty, LLC v. Cooper*, Western Div. Hsg. Ct. No. 23-SP-695 (Fields, J. 2023).

2. The tenants' counterclaims shall be severed and transferred to the Civil Docket in a newly generated case captioned: *James and Ranada Murray v. Vidhyadhar Mitta*.
3. A Case Management Conference with the Clerk's Office shall be scheduled no less than 45 days from the date of this order noted below.
4. By agreement of the parties, the tenants shall file an Amended Answer within 30 days from the date of this order noted below. If the tenants fail to file an Amended Answer timely, the matter shall be dismissed without prejudice.

So entered this 14 day of April, 2025.



Robert Fields, Associate Justice

Cc: Michael Doherty, Clerk Magistrate

Dan Ordorica, Esq., LAR Counsel for the tenants

Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Berkshire, ss.

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

PITTSFIELD HOUSING AUTHORITY,

Plaintiff,

-v.-

DOCKET NO. 24SP02521

LATORIA WILLIAMS,

Defendant.

ORDER

This matter came before the court on April 11, 2025 for a hearing on the defendant's motion to stop the move-out scheduled for April 15, 2025 at 10:00 a.m. The plaintiff appeared through its attorney, together with Chelsea Gancarz, public housing manager. The defendant appeared and was self-represented.

This eviction case is based on non-payment of the tenant's portion of the public housing rent (\$91 per month). The parties entered into an Agreement to resolve the matter on August 14, 2024. The plaintiff filed a motion to enter judgment based on the defendant's non-compliance with the agreed-upon payment plan. After hearing, a judge of this court ordered that the defendant had until December 20, 2024 to pay the balance of the arrearage as she offered to do. If she did, the plaintiff's motion would be withdrawn. If she did not, the plaintiff could file an affidavit of non-compliance and judgment would enter. The defendant did not make the full payment as she offered to do. Judgment entered for possession, unpaid rent/use and occupancy and costs on January 24, 2025. Execution issued on April 3, 2025 on the plaintiff's written request. The deputy sheriff served the defendant with a forty-eight hour notice that the execution would be used on April 15, 2025 at 10:00 a.m. to move her out of the premises.

The plaintiff reported that the defendant owes \$2,627.85 through April 2025.

The defendant argued that she has applied for RAFT financial assistance and that she has started a job. She offered to pay \$700 immediately.

After the hearing, the plaintiff submitted emails it had just received showing that the defendant applied for RAFT financial assistance an hour before the hearing (P Exh). Because the premises are in public housing, the defendant will need to document that she has a hardship or good cause for failing to pay her portion of the rent/use and occupancy in order to be eligible. If Hearthway finds her eligible for RAFT, the maximum amount that could be paid on her behalf is six months of her portion of the rent plus costs, up to a maximum of \$7,000. This would still leave a substantial balance. The defendant will need to propose a realistic payment plan for the balance.

Orders

After hearing, the following orders will enter:

1. The defendant's motion is **ALLOWED** pursuant to G.L. c. 239 §15 because she has a pending application for RAFT financial assistance. The move-out scheduled for April 15, 2025 at 10:00 a.m. is **STOPPED**.
2. The plaintiff's attorney will notify the deputy sheriff of this order immediately.
3. The defendant is responsible for the cancellation fee for the stopped move-out. The amount will be added to the judgment as costs when invoiced by the plaintiff.
4. The execution is stayed pending further order of the court. This stay of the execution is ordered within the meaning of G.L. c. 235 §23 so that the time period to use the execution is tolled.
5. The defendant will complete her RAFT application immediately, including documentation of hardship/good cause and a realistic payment plan for the balance.
6. The plaintiff will complete its portion of the RAFT application immediately.
 - a. The plaintiff will include the costs and the cancellation fee on the ledger.
7. The parties will engage in the RAFT application process in good faith and will provide any information to the other that is needed to facilitate the process.
8. The defendant will pay \$700 to the plaintiff no later than April 18, 2025. This will be applied to the arrearage.
9. Beginning in May and continuing each month, the defendant will pay her portion of the rent/use and occupancy as it becomes due.

10. The defendant will complete any recertification required because of a change in her household's income.
11. The Clerk's Office is asked to schedule this case for status in the Pittsfield session of the court to be held in thirty days and to send notice. At the status, the parties will report on the defendant's RAFT application and her payments to date.

April 14, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

HAMPDEN, ss

HAYASTAN INDUSTRIES, INC.,)
)
PLAINTIFF)
)
v.)
)
ANGELA GUZ, ET AL.,)
)
DEFENDANTS)

the Appeals Court vacated the finding of a c. 93A violation based on the breach of quiet enjoyment. The Appeals Court remanded to this court for the limited purpose of determining whether Plaintiff's technical violation of Chapter 65 (by requesting that Defendants vacate during the existence of an eviction moratorium then in place) caused Defendants a loss, whether economic or noneconomic, as required to recover under c. 93A. After reviewing Ms. Guz's testimony at trial, the court finds insufficient evidence that Ms. Guz suffered distress compensable under G.L. c. 93A based solely on the technical violation of Chapter 65. The court concludes that the stress and anxiety suffered at the time she received the April 27, 2020 letter was primarily related to the loss of her home to foreclosure.

The Appeals Court affirmed the portion of the judgment finding a violation of c. 93A due to Plaintiff's initial inclusion of lot fees in the summary process complaint, but vacated the award of damages, costs and attorney's fees for the violation, and remanded for recalculation. After reviewing the testimony at trial and the court's findings, the court now confirms that Ms. Guz suffered no economic harm and minimal noneconomic harm. The court finds insufficient evidence to warrant an award of damages for emotional suffering. The court confirms its earlier finding that Plaintiff's conduct was merely a technical violation of c. 93A, entitling Ms. Guz to statutory damages in the amount of \$25.00, plus reasonable attorney's fees and costs.

Under G.L. c. 239, § 8A, a tenant who faces eviction in a summary process action for nonpayment of rent, or because the tenancy is terminated without fault of the tenant, has the right to raise certain defenses or counterclaims. The defense or counterclaim must relate to or arise out of the tenancy and be based on a breach of warranty, a breach of any material provision of the rental agreement, or a violation of any other law. See *Meikle v Nurse*, 474 Mass. 207, 212 (2016) (internal citations omitted). Defendants' counterclaim under c. 93A in this case relates to or

arises out of the tenancy and thus constitutes a violation of “any other law” under § 8A.

Therefore, because Plaintiff did not establish at trial that they were entitled to any unpaid rent or use and occupancy,¹ the finding in favor of Defendants on their c. 93A counterclaim based on the demand of monies not owed is a defense to Plaintiff’s claim for possession.

As for the award of attorneys’ fees, with reference to the court’s February 7, 2022 order, the court reconsiders the award in light of the Appeals Court rescript. Given that Defendants were unsuccessful on all claims except for the single technical c. 93A violation based on Plaintiff’s demand for rent and use and occupancy not due, the court concludes that a reasonable attorney’s fee in this case is \$3,500.00.²

Accordingly, the following order shall enter:

1. Judgment shall enter for Defendants for possession.
2. Judgment shall enter for Defendants in the amount of \$25.00 in damages and \$3,500.00 in attorney’s fees.³

SO ORDERED.

April 15, 2025

By: Jonathan J. Kane
Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

¹ In its amended complaint, Plaintiff sought \$1,000.00 for use and occupancy, but it did not offer sufficient evidence to warrant a finding as to the fair rental value of the manufactured home and the court did not award Plaintiff any rent or use and occupancy in this case.

² Defendants did not petition for costs.

³ The award of attorney’s fees is without interest.

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-3188

HEARTHWAY, INC.,

Plaintiff,

v.

TATIANA MONTILLA,

Defendant.

ORDER

After hearing on April 9, 2025, on the landlord's motion for entry of judgment, the following order shall enter:

1. A representative from the Tenancy Preservation Program (TPP) appeared and reported on the record that the tenant is working with TPP and engaged in mental health services identified by TPP, and that the tenant emailed TPP the day before the hearing and informed it that she was not going to be able to appear at the hearing due to a sick child.
2. The landlord wished to proceed with hearing on its motion and reported to the court that though RAFT paid \$1,056 on December 12, 2024, and the tenant

paid her rent in February 2025, the tenant has failed to pay rent or the extra arrearage payment for March 2025.¹

3. TPP also shared its assessment that there may be a relationship between the tenant's suffering from [REDACTED] and her failure to comply strictly with the January 29, 2025, Agreement of the Parties (Agreement).
4. Given that the tenant is engaged with TPP, that she purportedly has a sick child at home, and that her mental health may be contributing to her failure to fully comply with the terms of the Agreement, and also given that the amount of outstanding debt is only \$112 greater than when the Agreement was filed in January 2025, the Court shall continue hearing on the landlord's motion to the date and time noted below to afford the tenant opportunity to make payments and to work with TPP to improve her mental health.
5. This matter shall be scheduled for **April 30, 2025, at 9:00 a.m.** for further hearing on the landlord's motion.

So entered this 15 day of April, 2025.


Robert Fields, Associate Justice

Cc: TPP Berkshire

Court Reporter

¹ The landlord also reports that it has not received rent for April 2025 which was due four days before the hearing by April 5, 2025, but TPP reported that the tenant's email to them indicated that she just made a payment towards rent.

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-3508

PITTSFIELD HOUSING AUTHORITY,

Plaintiff,

v.

MARGUERITE ATWOOD,

Defendant.

ORDER FOR ENTRY OF
JUDGMENT

After hearing on April 9, 2025, on the landlord's motion for entry of judgment at which the landlord appeared through counsel and the tenant appeared self-represented, the following order shall enter:

1. The landlord reported what was paid by the tenant each month since the November 6, 2024, Agreement of the Parties (Agreement).
2. Though there were substantial payments made each month, there was only partial compliance in January and February 2025.
3. The tenant explained that when she entered into this Agreement she was working extra hours and those hours were subsequently reduced.

4. The tenant believes she can make her rent plus \$100 extra each month (instead of rent plus \$100 per week).
 5. Based on the foregoing, judgment shall enter for the landlord for possession plus \$7,205 (damages of unpaid rent through April 2025) plus court costs.
- There shall be a stay on the issuance of the execution (and the timelines discussed in G.L. c.235, s.23 shall be tolled by this stay) so long as the tenant pays her rent timely and an extra \$100 per month by the end of each month.

So entered this 15 day of April, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden, ss.

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

**POAH COMMUNITIES, LLC, AS LESSOR, AND
EASTGATE PRESERVATION ASSOCIATES,
L.P., AS OWNER,**

Plaintiff,

-v.-

DOCKET NO. 24SP00540

JACKELINE MALDONADO SANTOS,

Defendant.

ORDER

This matter came before the court on April 11, 2025 for a hearing on the defendant's motion to stop the move-out scheduled for April 14, 2025 at 11:00 a.m. (docket #24). The defendant had filed an earlier motion to stay the execution and to vacate the judgment (docket #18). That motion was scheduled for hearing on April 24, 2025, but the court incorporated it into the motion to stop the move-out because the issues are related. The plaintiff appeared through their attorney with property manager Rosa Rodriguez. The defendant appeared and was self-represented. Bekki Craig of the Tenancy Preservation Program (TPP) was present at the hearing. Janis Luna of Wayfinders joined the hearing to report on RAFT.

This eviction case is based on nonpayment of rent and was filed on February 5, 2024. The tenancy is subsidized through a Low Income Tax Credit program and the project-based Section 8 program. In addition to nonpayment of the tenant's portion of the rent, the defendant failed to recertify her household income in August 2024 so her portion went to market rate (\$1,451). There were five months of unpaid market rate rent. The tenant has now completed her recertification and her portion of the rent/use and occupancy is \$560. The plaintiff reports that

there is \$5,110.72 in unpaid rent/use and occupancy through April 2025 and \$207.25 costs. The cancellation fee for stopping the April 14 move-out is \$940.

The parties entered into an Agreement on April 18, 2024 to resolve the matter. By its terms the defendant agreed to pay her ongoing use and occupancy, to pay the arrearage pursuant to a payment plan, and to apply for RAFT financial assistance. The plaintiff filed a motion for entry of judgment on the grounds that the defendant had not paid as she agreed and had not applied for RAFT. A judge of this court allowed the motion on February 28, 2025. The same day the defendant filed her motion to stay the execution and vacate the judgment (docket #18). Judgment entered on March 6, 2025 for the plaintiff for possession and \$6,350.74 with \$207.25 costs. Execution issued on March 20, 2025 on the plaintiff's written request. The deputy sheriff served the defendant with a forty-eight hour notice that the execution would be used to move her out of the premises on April 14, 2025 at 11:00 a.m.

The defendant argues that she made some but not all of the use and occupancy and arrearage payments that she agreed to pay. When the plaintiff filed their motion for entry of judgment on December 24, 2024, the defendant had not applied for RAFT financial assistance as she agreed to do. Since then, she has applied for RAFT twice. Ms. Luna of Wayfinders confirmed that her first application timed out because she did not submit documentation of a hardship/good cause for failing to pay her portion of the rent/use and occupancy. Ms. Luna confirmed that her second application is pending and that Wayfinders is waiting for the landlord's documentation. Ms. Rodriguez reported that the landlord uploaded its documentation at least three times, but it does not appear in the Wayfinders' records.

Because this is a subsidized tenancy, the defendant will need to demonstrate a hardship/good cause for failing to pay her portion of the rent/use and occupancy to be determined eligible for RAFT financial assistance. Ms. Craig of TPP reported to the court that she had just met with the tenant before the hearing and explained to her the hardship requirement. If Wayfinders determines her to be eligible, RAFT could pay six months of the tenant's portion as well as costs, up to a maximum of \$7,000.

The plaintiff objects to acceptance of money on behalf of the defendant that would reinstate her tenancy. However, the court finds that if the defendant is determined to be eligible for RAFT, it would reduce the arrearage through April and the costs to zero. The court finds that both parties must cooperate with the RAFT application process in good faith. During the

hearing, the court referred the case to TPP for an assessment and, if eligible for TPP services, for assistance with the RAFT application.

Findings and Orders

Based on the representations of both parties at the hearing, the court makes the following findings and enters the following orders:

1. The defendant's motion to vacate the March 6, 2025 judgment is **DENIED**. The defendant did not present evidence that would have changed the outcome of the February 28, 2025 hearing on the plaintiff's motion for entry of judgment even if she had been present. She concedes that she had not made the payments as she agreed in the parties' April 18, 2024 Agreement. The March 6, 2025 judgment remains in full force and effect.
2. The defendant's motion for a stay of the execution is **ALLOWED**, pending further order of the court and compliance with the orders below.
 - a. This stay of the execution is granted within the meaning of G.L. c. 235 §23, so that the time to use the execution is tolled.
3. Because the court has acted on the defendant's two motions (docket #18 and #24) in this order, the Clerk's Office will remove the case from the motion list for April 24, 2025.

The following orders were stated on the record:

4. The defendant's motion to stop the move-out scheduled for April 14, 2025 at 11:00 a.m. is **ALLOWED**. The defendant now has a RAFT application pending, pursuant to G.L. c. 239 §15.
 - a. The plaintiff's attorney agreed to notify the deputy sheriff of this order forthwith.
 - b. The defendant is responsible to pay the cancellation fee for the stopped move-out of \$940.
5. As she agreed to do, the defendant will pay \$600 toward the arrearage no later than April 14, 2025 at 11:00 a.m.
6. As she agreed to do, beginning in May 2025 and continuing until she reaches a zero balance, the defendant will pay \$1,000 each month. The payments will be applied first to the current month's use and occupancy, as calculated by the subsidy provider, and the balance to the arrearage and costs.
7. During the week of April 14, 2025 both parties will complete their documentation to support the defendant's RAFT application, now pending.

- a. The plaintiff will contact Wayfinders to correct the recent problem with receipt of the uploaded documents.
 - b. The plaintiff will include the costs and cancellation fee on the ledger.
 - c. The defendant will work with TPP to provide documentation of hardship/good cause for failing to pay her portion of the rent/use and occupancy.
8. The case was referred to TPP during the hearing. During the week of April 14, 2025 the defendant will meet with a representative of TPP to complete the assessment of eligibility for TPP services.
- a. If she is found eligible for TPP, the defendant will cooperate with the TPP clinicians and any guidance offered to resolve the nonpayment of rent issue on a long-term basis.
9. **This case is scheduled for status on April 18, 2025 at 9:00 a.m.**
- a. At the status hearing, all parties will report on compliance with the above orders.
 - b. A representative of TPP is asked to be present at the status hearing.
 - c. All parties, their attorneys and TPP may appear for the status hearing via Zoom. If they wish to do so, they will contact the Clerk's Office before April 18, 2025 to get the Zoom log-in information.

April 15, 2025

Fairlie A. Dalton
Fairlie A. Dalton, J. (Rec.)

CC: Tenancy Preservation Program

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden, ss.

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

DOLORES RODRIGUES,

Plaintiff,

-v.-

DOCKET NO. 24SP02240

KEEANA MATOS,

Defendant.

ORDER

This matter came before the court on April 11, 2025 for a hearing on the defendant's motion to vacate the February 18, 2025 judgment and for a stay of the use of the execution. The plaintiff appeared through her attorney. The defendant appeared and was self-represented, although she prepared her motion with the assistance of counsel.

This eviction case was filed on June 5, 2024 based on nonpayment of rent. The parties entered into an Agreement to resolve the matter on August 15, 2024. By its terms the landlord agreed to reduce the arrearage by \$2,387.36 to \$7,000, which the defendant agreed to pay with RAFT financial assistance when she next became eligible in January 2025. In the Agreement, the defendant also agreed to pay her monthly rent/use and occupancy (\$1,400) no later than the seventh of each month. The plaintiff filed a motion for entry of judgment on the grounds that the defendant did not pay the use and occupancy in full and on time. After a hearing on February 13, 2025, which the defendant failed to attend, a judge of this court ordered that judgment would enter. Judgment entered on February 18, 2025 for possession and \$10,500 in unpaid rent/use and occupancy and \$224.16 costs. The defendant filed two motions for relief from judgment and for a stay of the execution. Both were denied when again she did not appear for the hearing. Execution issued on March 19, 2025 on the plaintiff's written request.

The defendant has now filed a third motion for relief from judgment and for a stay of the use of the execution. The parties agree that after the judgment entered, the landlord received \$7,000 RAFT financial assistance on behalf of the tenant.¹ This did not reduce the arrearage to zero. Although the defendant promised to pay the balance with her tax refund, she did not do so because her refund was less than she expected. The arrearage is now \$6,300 through April 2025 and \$224.16 costs. The defendant offered to pay \$3,000 to the landlord at this time and to pay the balance if and when her unemployment compensation claim is approved and she receives a retroactive lump sum. She reported that she is starting a new job next week and will begin receiving a paycheck the week after that. She reported to the court that in any event she is planning to move out of state effective August 1, 2025.

While the landlord has worked with Ms. Matos to resolve the nonpayment issue, Ms. Rodrigues is concerned that her promises of future payments are not realistic. The court understands her concern. However, in light of the fact that a substantial amount of the arrearage is being paid; that the defendant presented a plan to pay the balance; and that she is planning to move relatively soon, the court grants the defendant a further opportunity to bring her tenancy into good standing and reduce the arrearage to zero before she moves on August 1. The court finds no grounds to vacate the February 18, 2025 judgment. Even if the defendant had been present at the hearing, the outcome would have been the same because she had not made the payments as she agreed to make; the arrearage had increased substantially since the parties signed the Agreement; and there was no RAFT application pending at the time.

Order

After hearing and based on the above, the following orders will enter:

1. The defendant's motion for relief from judgment is **DENIED**.
2. The defendant's motion to stay the use of the execution is **ALLOWED** as follows on condition that she comply with the following provisions:
 - a. The defendant will pay \$3,000 to the plaintiff no later than April 21, 2025. This will reduce the arrearage to \$3,300 and \$224.16 costs.

¹ This exhausts the defendant's eligibility for RAFT for twelve months. Because there is no application for RAFT financial assistance pending at this time, G.L. c. 239 §15 does not apply in this case.

- b. Beginning in May 2025 and continuing in June and July, the defendant will pay her use and occupancy of \$1,400 no later than the seventh of each month.
 - c. The defendant will pay the balance of \$3,524.16 to the plaintiff within two days of receiving her unemployment compensation lump sum and in any event no later than May 21, 2025.
3. If the defendant does not make the payments as outlined above in no. 2 a, b and c, the plaintiff may file and serve a motion to lift the stay of the use of the execution. If such a motion is filed, the Clerk's Office is asked to schedule it for the next available hearing date and to send notice.
4. The stay of execution ordered herein is granted pursuant to G.L. c. 235 §23, so that the time to use the execution is tolled.

April 15, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. ~~25~~ CV-0280

WICKED DEALS, LLC,

Plaintiff

v.

STEVEN MERRILL,

Defendant

ORDER

The parties appeared before the court on April 14, 2025 on Plaintiff's request for a preliminary injunction. Plaintiff appeared through counsel. Defendant appeared self-represented. Based on the verified complaint and following hearing, the court finds that Plaintiff acquired property known as 24 Maple Avenue, Ware, Massachusetts (the "property") on or about January 29, 2025 by foreclosure deed. Defendant is the former owner and remains in possession with his daughter and two grandchildren. Shortly after its purchase, Plaintiff received notice from the Childhood Lead Poisoning Prevention Program ("CLPPP") that, because of the change in ownership of the property, it had to obtain a Letter of Full Compliance or a Letter of Interim Control within 90 days of becoming owner. See G.L. c. 111, § 197. Although it offered no testimony or evidence from a licensed lead contractor describing the process to be

followed, Plaintiff claims the household must vacate the property during the remediation and/or deleading work.

Defendant is willing to vacate but asserts that the alternative housing accommodations must be provided by Plaintiff as the property owner. Plaintiff argues that it has no landlord-tenant relationship with Defendant, is not receiving rent or payments for use and occupation and did not cause the problem, and therefore should not be required to pay for Defendant and his family to live elsewhere during the work.

In considering a request for injunctive relief, the court evaluates in combination the moving party's claim of injury and chance of success on the merits. If the court is convinced that failure to issue the injunction would subject the moving party to a substantial risk of irreparable harm, the court must then balance this risk against any similar risk of irreparable harm which granting the injunction would create for the opposing party. What matters as to each party is not the raw amount of irreparable harm the party might conceivably suffer, but rather the risk of such harm considering the party's chance of success on the merits. Only where the balance between these risks cuts in favor of the moving party may a preliminary injunction properly issue. See *Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609, 617 (1980).

The court is satisfied that failing to order Defendant and his family to vacate during the remediation and/or deleading work would subject both parties to a substantial risk of irreparable harm. There appears no dispute that a child under the age of six resides at the property, and a child under the age of six could suffer irreparable harm if the remediation and/or deleading is not completed promptly.

Further, it is likely that, given Massachusetts lead laws, Plaintiff would demonstrate at trial that it is obligated to do the work within 90 days to avoid strict liability for damages associated with lead poisoning. See G.L. c. 111, § 199(d).

Turning to the question at hand, the CLPPP is silent on whether a post-foreclosure owner is obligated to provide and pay for alternative housing of the former homeowner who has not vacated after notice to do so. Although there is some appeal to placing the burden on the former homeowner who failed to abate or contain the lead hazards during his ownership of the property, on balance, the court concludes that the burden of paying for alternative housing must be borne by Plaintiff. Plaintiff accepted the risk of purchasing an occupied property with unknown housing conditions built prior to 1978.¹ Plaintiff was (or should have been) aware of the potential costs of repairs and renovations, including the possibility that it would be required to comply with the requirements of the CLPPP. It follows that all costs associated with abating or containing the lead hazards must be paid by Plaintiff, including the cost of substitute housing if the occupants cannot reside in the house during the work.²

Accordingly, the following order shall enter:

1. Plaintiff shall provide temporary alternative housing in the form of a hotel room, short term rental or a residential dwelling for the exclusive use of Defendant and his family. No daily stipend will be ordered under the circumstances. The alternative housing shall be in a comparable location

¹ If Plaintiff had actual knowledge of lead hazards, it must have factored the costs associated with complying with the CLPPP in its bid for the property.

² Plaintiff is not precluded from asking for an order that Defendant pay for his use and occupation in the interim, even during the period when it is providing alternative housing.

and must be able to accommodate two adults in separate beds and two children. The alternative housing must continue until Defendant can safely return to the property following remediation and/or deleading.

2. Defendant must properly prepare the property by moving all furniture and other items to the middle of each room. To the extent the items have not been moved away from walls by the time the lead abatement contractor begins, Plaintiff may move the items to the middle of each room.
3. Plaintiff must provide notice to Defendant of the time and date of the lead abatement or containment work at least 48 hours prior to the commencement of the work. For so long as Defendant and all other occupants are in substitute housing, no advance notice is necessary for entering the property for the purpose of complying with the CLPPP.
4. Defendant must immediately clear the exterior of the property of all items that might obstruct Plaintiff's exterior remediation and/or deleading work.
5. The legislative fee for injunction is hereby waived.

SO ORDERED.
April 15, 2025



Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

FRANKLIN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-0047

CASCADE FUNDING MORTGAGE TRUST HB-4,

Plaintiff

v.

JASON BETINIS,

Defendant

ORDER ON PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

This post-foreclose eviction case came before the court on February 21, 2025 for hearing on Plaintiff's motion for summary judgment.¹ Plaintiff appeared through counsel. Defendant did not appear.²

The standard for review on summary judgment "is whether, viewing the evidence in the light most favorable to the non-moving party, all material facts have been established and the moving party is entitled to a judgment as a matter of law." *Augat, Inc. v. Liberty Mut. Ins. Co.*, 410 Mass. 117, 120 (1991). See Mass. R. Civ. P. 56 (c). The moving party must demonstrate with admissible evidence, including deposition testimony, answers to interrogatories, admissions, documents, and affidavits, that there are no genuine issues as to any material facts, and that the moving party is entitled to a

¹ On January 23, 2025, Defendant filed a motion for a reasonable accommodation seeking to postpone the hearing in this matter for three weeks. His request was allowed administratively, and the hearing was rescheduled for February 21, 2025.

² Plaintiff's counsel represented that Mr. Betinis left her a voicemail just prior to the hearing indicating that he was having trouble accessing the virtual hearing and that he had poor or no service. The court delayed the start of the hearing, but Mr. Betinis did not appear over the following 30 minutes. The court also delayed issuing this decision to give Mr. Betinis the opportunity to file a motion, but he did not do so.

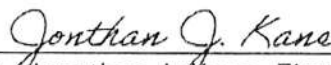
judgment as a matter of law. *Community National Bank v. Dawes*, 369 Mass. 550, 553-56 (1976). “Any doubts as to the existence of a genuine issue of material fact are to be resolved against the party moving for summary judgment.” *Lev v. Beverly Enters-Mass., Inc.*, 457 Mass. 234, 237 (2010).

In a summary process action for possession after foreclosure by sale, Plaintiff must make a prima facie showing that it obtained a deed to the subject property and that the deed and affidavit of sale, showing compliance with statutory foreclosure requirements, were recorded. See *Bank of New York v. Bailey*, 460 Mass. 327, 334 (2011); see also *Fed. Nat’l Morg. Ass’n v. Hendricks*, 463 Mass. 635, 642 (2012) (in a summary process action a foreclosure deed and statutory form [affidavit] constitute prima facie evidence of the right of possession). Here, Plaintiff’s Statement of Undisputed Material Facts with its attached exhibits (certified copies of which were provided to the court), along with the legally sufficient 72-hour notice to quit served upon Defendant, establishes Plaintiff’s prima facie case for possession.

Defendant filed an answer asserting various defenses and counterclaims, but did not file an opposition to the summary judgment motion. Defendant failed to offer any specific facts showing there is a genuine, triable issue. Accordingly, Plaintiff’s motion for summary judgment is ALLOWED. The following order shall enter:

1. Judgment for possession shall enter in favor of Plaintiff.
2. Execution may issue upon written application after the expiration of the appeal period.

SO ORDERED.
April 16, 2025


Hon Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

FRANKLIN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SC-0058

MARY B. MARLOW, Plaintiff v. CHRISTOPHER MASON, Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR ENTRY
OF JUDGMENT

This matter came before the court on January 24, 2025 for a de novo bench trial following an appeal of a small claims judgment entered in favor of Plaintiff (Ms. Marlow) after a magistrate hearing on October 4, 2024. Ms. Marlow and Defendant (Mr. Mason) both appeared for the de novo trial self-represented. Based on all the credible testimony, the other evidence presented at trial and the reasonable inferences drawn therefrom, the court finds, rules and orders as follows:

At all times relevant to this case, Mr. Mason owned a property located at 26 Congress Street, Apt. 1, Greenfield Massachusetts (the "Premises"). At some point, he and Ms. Marlow began a romantic relationship, and in or about April 2020, Ms. Marlow moved into the Premises to live with Mr. Mason. She vacated in June 2021 when their romantic relationship ended. As a result of a stove fire in early January 2021, the Premises were rendered uninhabitable. The parties stayed in various hotels until May 2021, when the repairs were completed, and the Premises once again became habitable.

Ms. Marlow contends that she paid \$500.00 per month for rent from the time she moved in until June 2021, when she moved out. Apart from the month of June 2021, Mr. Mason does not dispute that Ms. Marlow paid \$500.00 each month;¹ however, he adamantly denies that Ms. Marlow was ever a tenant or that he ever charged her rent. Instead, Mr. Mason characterizes the payments as contributions to household expenses. Under Massachusetts law, a tenancy at will is a relationship based on an agreement between parties, either express or implied, for one to use or occupy the premises of another. *Rubin v. Prescott*, 362 Mass. 281, 284 (1972). A tenancy at will requires consideration and the consent of both parties. *Miller v. Berk*, 328 Mass. 393, 397 (1952). While usually in the form of rent, any consideration that would support a contract is sufficient to create a tenancy at will. *Story v. Lyon Realty Corp.*, 308 Mass. 66, 70 (1941). The parties do not need to enter into a written agreement and the payments do not need to be called “rent.” The court finds that Ms. Marlow’s \$500.00 monthly payments constitute adequate consideration for the formation of a tenancy at will.

Because Ms. Marlow is entitled to the legal protections of a tenant, she should not have been required to make the \$500.00 monthly payments during the period that the Premises were rendered uninhabitable. Even accepting Mr. Mason’s characterization that these payments were made to help defray household expenses, such payments should have been suspended during the time that the Premises were vacant. The court finds that Ms. Marlow made five payments of \$500.00 between January 2021 and May 2021, and therefore is entitled to reimbursement from Mr. Mason in the amount of \$2,500.00.

¹ Ms. Marlow offered into evidence copies of numerous \$500.00 checks, but the only check from 2021 is for January. Nonetheless, Mr. Mason did not contest her claim of such payments other than for June 2021.

In addition to paying \$500.00 each month from January 2021 through at least May 2021, Ms. Marlow paid for hotel rooms for the couple and their children. The court finds that she spent a total of \$2,238.08 for such accommodations. Both parties understood that these expenses hotel stays would be reimbursed by Mr. Mason's insurance company, and there is no dispute that Mr. Mason partially reimbursed Ms. Marlow in June 2021 with a payment of \$2,000.00. The balance of \$238.08 was not covered by Mr. Mason, and Ms. Marlow is entitled to reimbursement of those funds.

In addition to the temporary alternative accommodations, Ms. Marlow claims she spent thousands of dollars on food and other expenses, such as cleaning products and personal items. She produced many receipts and summaries of expenses, but many of the receipts were illegible and most of them were not clearly identified. The parties' testimony leads the court to infer that some if not all the food and miscellaneous expenses were incurred voluntarily as part of the personal relationship of the parties and may have been incurred even had she been residing in the Premises with Mr. Mason. For example, as Ms. Marlow conceded, the food she purchased was consumed by herself, her son, Mr. Marlow and, in some cases, his two children. Ms. Marlow has the burden to demonstrate by a preponderance of the evidence that all these expenses were incurred because she was unable to reside in the Premises for several months, and she failed to satisfy this burden. Therefore, the court awards no additional damages to Ms. Marlow for food, miscellaneous items and personal expenses.²

² It is clear to the court that this case is not just about Ms. Marlow being displaced from the Premises, but it is also about the dissolution of their personal relationship. This court is not the appropriate forum for addressing such matters. This court limits its decision to those matters relating to the expenses Ms. Marlow incurred specifically because she was displaced from the Premises.

Based on all the credible testimony, the other evidence presented at trial and the reasonable inferences drawn therefrom, the court enters the following order:

1. Judgment shall enter in favor of Plaintiff in the amount of \$2,738.08 plus statutory interest.
2. Because the filing fee of \$150.00 was waived, pursuant to G.L. c. 261, § 27E, Defendant shall pay this sum to the Clerk's Office within fifteen (15) days.³

SO ORDERED.
April 17, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

³ Costs shall be paid by check or money order made payable to the Commonwealth of Massachusetts and sent or delivered to the Clerk's Office of the Western Division Housing Court at 37 Elm Street, Springfield, MA 01102-0559.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0329

IRIS SANTOS,)
Plaintiff)
v.)
9092 HIGH SPRINGFIELD MA LLC,¹)
Defendant)

ORDER FOR PRELIMINARY
INJUNCTION AND
NOTICE TO APPEAR

This matter came before the court on April 17, 2024 for a hearing on Plaintiff's verified complaint for injunctive relief. Plaintiff appeared through counsel from the Lawyer for the Day Program. Defendants did not appear after notice was delivered to the registered agent by the Norfolk County Sheriff's Department.

Based on the facts set forth in the verified complaint and Plaintiff's testimony, the Court finds that Plaintiff was assaulted in her home at 92 High Street, Springfield, Massachusetts (the "Premises") on April 8, 2025 and that unidentified and unauthorized persons have taken over possession of the Premises. She and her disabled child have been unable to return to the Premises. Plaintiff has no adequate remedy at law and is likely to prevail on the merits. Further, Plaintiff is likely to suffer immediate and irreparable harm if the injunctive relief is denied.

¹ The case caption should be amended to reflect the owner's correct name.

Accordingly, the following order shall enter:

1. 9092 High Springfield MA LLC shall appear with counsel at the Western Division Housing Court on April 22, 2025 at 2:00 p.m. to show cause as to why the court should not order that it place Plaintiff in either temporary alternative housing or substitute permanent housing at its cost based on the circumstances.
2. A copy of this order shall be served forthwith upon Defendant's registered agent, Alex Cwiakala at 18 Sachem Street, Quincy, Massachusetts 02170 and upon both Alex Cwiakala and Harrison Bonner at 435 Maple Street, Holyoke, Massachusetts 01040.
3. The legislative fee for injunctions is waived.

SO ORDERED.

April 17, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-CV-307**

BETSY MEDINA,

Plaintiff,

v.

ZAMARIE MORALES and LUIS RIVERA,

Defendants.

ORDER

After hearing on April 18, 2025, on the plaintiff's complaint and request for injunctive relief, at which the plaintiff appeared with counsel and the defendants appeared self-represented, the following order shall enter:

1. The plaintiff met her burden of proof that she has a likelihood of success on the merits, that the harm to her outweighs that to the defendants and that she may be irreparably harmed unless the below order is issued, and also that such an order furthers public policy.
2. For the reasons stated on the record, the defendants are hereby ordered to not show, sell, or transfer the subject premises (131 Ft. Pleasant Street, 2nd floor, Springfield); nor allow anyone to lease up or occupy the premises other than the plaintiff until further court order.

3. The defendants shall provide copies of each and every application (or partially completed application) they received for renting of the subject premises during March or April 2025, copies of each credit check they engaged in or had performed regarding leasing of the subject premises in March or April 2025. The defendant shall also provide a list of each person they showed the subject premises to and for each such person, the name and contact information in March and April 2025. Finally, the defendants shall provide copies of each document or photograph they intend to put into evidence at the next hearing scheduled below. All of these shall be provided to the plaintiff's attorney by no later than April 24, 2025.
4. It is the court's hope that by sharing a copy of this order with the agency that administers the plaintiff's rental voucher (stated to be the Springfield Housing Authority) said agency shall toll the time on the plaintiff's time to lease-up her voucher as the court has indicated that the plaintiff has met her *prima facie* burden on her claim for requiring the defendants to lease-up and de-lead the subject premises---subject to the evidence admitted at the next hearing.
5. This matter shall be scheduled for further hearing on the plaintiff's request for injunctive relief on **April 28, 2025, at 2:00 p.m.**

So entered this 18th day of April, 2025.

Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP3932

WINSLOW BUILDING MANAGEMENT, LP,

Plaintiff,

v.

MICAH PURINTON,

Defendant.

ORDER for ISSUANCE OF THE
EXECUTION FOR
POSSESSION ONLY

After hearing on April 11, 2025, on the landlord's motion to enter judgment at which the tenant failed to appear after proper notice, the following order shall enter:

1. **Background:** The parties entered into an Agreement and filed with the court on March 14, 2025 (Agreement). The #6 term prohibits overnight guests.
2. **Discussion:** The landlord met its burden of proof through the testimony of its property manager, Neida Rordriguez, who testified and produced still photographs off of the surveillance system at the subject premises. Said photographs show a non-resident entering and exiting the tenant's unit with only shorts (no socks or shirt or other outdoor clothing) at 6:00 a.m. on April

4, 2025. The court also credits the witness' testimony that he has seen many instances in the surveillance footage of this same person entering/exiting the tenant's unit in the wee hours of the night.

3. Having violated the Agreement, execution may issue for possession (no costs or damages) for the landlord based on the March 17, 2025, judgment.

So entered this 18 day of April, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

DOCKET NO.: 25-CV-0283

PATRICK MCCARTHY)
Plaintiff,)
)
v.)
)
ROMAN AUVGANG, ET AL.,)
Defendants)
)

DOCKET NO.: 25-CV-0302

JOEL A. WILLIAMS,)
Plaintiff,)
)
v.)
)
ROMAN AUVGANG,)
Defendant)
)

Re: 84 Oak Grove Avenue, Springfield, Massachusetts (the "Premises")

ORDER FOR THE APPOINTMENT OF A RECEIVER

These matters came before the court on April 17, 2025 for further hearings on the plaintiffs' motions for injunctive relief. Plaintiffs Dukes, Roncarati and McCarthy appeared self-represented. Counsel for VC Real Estate and the Witman Properties, Inc. ("Witman"), the limited receiver, appeared. Counsel for the City of Springfield, an interested party in this matter, also appeared. The court appointed Witman as limited receiver on April 8, 2025 when it found that the defendant was unwilling or unable to comply with the State Sanitary Code or this court's orders regarding the provision of alternative housing to the occupants of the Premises following an order of condemnation. The limited receivership was to end upon lifting of the condemnation, which was anticipated to occur on April 16, 2025 following a housing inspection by the

City of Springfield Housing Division. Despite expectations, the condemnation was not lifted following the inspection. It appears to this court that the property owner is simply unwilling to bring the Premises into code compliance and is flatly ignoring court orders to provide alternative housing and allow access by the occupants to their personal items.

Accordingly, after hearing today, the court finds that the code violations at the Premises will not be promptly remedied unless a full receiver is appointed, and that such appointment is in the best interest of future occupants and of public safety. The court further finds that a full receivership is necessary for this court's orders to be followed. Pursuant to the general equity powers of this court and G.L. Chapter 111, Section 127I, the court hereby expands the role and powers of Witman (herein after, the "Receiver") into a full receivership in accordance with the as follows:

1. The Receiver shall complete all repairs and take all step necessary to lift the condemnation order at the Premises.
2. Upon completion of the necessary repairs and the lifting of the condemnation order, the Receiver shall immediately notify the court. Until the next review date, the Receiver's powers and duties are limited to providing alternative housing to displaced occupants, ensuring that the condemnation gets lifted, and providing access to affected occupants. The Receiver shall post the property with the Receiver's contact information. The Receiver is authorized to employ companies, persons or agents if necessary and appropriate to perform its duties hereunder.
3. The Receiver may charge a reasonable management fee consistent with

industry standards in the area; and a reasonable hourly rate consistent with industry standards for maintenance work performed by the Receiver, or agents thereof, in repairing or maintaining the Property.

4. The Receiver shall file periodic reports with the Court, setting forth all expenses and disbursements of the receivership, with attached receipts, and an accounting of all funds received by the Receiver during the period covered by such report, including a list of all tenants/occupants residing at the Premises.
5. The Receiver shall file its first report the day prior to the next court date and every six (6) weeks thereafter.
6. The Receiver shall not be required to file a bond, nor shall the Receiver be required to file an inventory, list of encumbrances, list of creditors or any other report required to be filed by Rule 66 of the Massachusetts Rules of Civil Procedure, except as otherwise specifically provided herein.
7. The Receiver shall forthwith acquire general liability insurance in the amount of \$1,000,000.00, or such other amount as is consistent with industry standards, and casualty loss insurance and provide proof of coverage to the court. The cost of insurance shall be given first priority under the terms of this order.
8. The Receiver shall have a priority lien on the Premises pursuant to the “super-priority” provision of G.L. c. 111 § 127I, as amended, third paragraph, upon the recording of this order.
9. The Receiver shall cause a title exam to be conducted and shall send a copy

of this order to all mortgagees and lienors of record.

10. The Premises shall not be transferred, foreclosed upon, sold, encumbered or placed under contract for sale without prior leave of the court.
11. The Receiver is authorized to change the locks, provided that it provides all occupants with keys upon the lifting of the condemnation order.
12. The Receiver may forthwith record a copy of this order at the Registry of Deeds.
13. The foregoing Order shall remain in effect until the further order of the court. The Receiver and all other affected parties shall appear for further orders consistent herewith on May 1, 2025 at 2 am pm.

April 21, 2025


Jonathan J. Kane, First Justice
Western Division Housing Court

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

FRANKLIN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-SP-0798

MAKING OPPORTUNITY COUNT INC.,

Plaintiff

v.

CRYSTAL HILL,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR JUDGMENT

This summary process case brought for nonpayment of rent came before the court for a bench trial on April 18, 2025. Plaintiff appeared through counsel. Defendant appeared self-represented. Plaintiff seeks to recover possession of the residential premises located at 38 East Main Street, #1, Millers Falls, Massachusetts from Defendant.

The parties stipulated to Plaintiff's prima facie case for possession and unpaid rent in the amount of \$3,560.00. Defendant's current share of the monthly rent is \$252.00 per month.¹ Defendant did not file an answer and raised no defenses at trial. Accordingly, the following order shall enter:

1. Judgment shall enter for Plaintiff for possession and \$4,320.00 in damages, plus court costs.
2. Issuance of the execution (eviction order) may issue upon written application after the ten-day appeal period.

¹ Defendant has a project-based rent subsidy.

3. Use of the execution is stayed,² and the time set forth in G.L. c. 235, § 23 is tolled, until October 17, 2025 on the conditions that Defendant (a) pay \$252.00 by April 22, 2025 and (b) pay \$400.00 by the 5th of each month beginning in May 2025.
4. Defendant shall seek third party rental assistance to assist in reducing the balance owed.
5. The parties shall appear for further hearing on October 17, 2025 at 9:00 a.m. at which time the court shall either lift or extend the stay.

SO ORDERED.
April 21, 2025


Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

² The period for issuing the execution shall also be stayed in the event Plaintiff elects not to request issuance of the execution immediately after expiration of the appeal period.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 23-SP-3271

SOUTHWICK HOUSING AUTHORITY,

Plaintiff

v.

MARY BISSAILLON,

Defendant

ORDER TO ISSUE
EXECUTION

This case came before the court on April 10, 2025 on Plaintiff's motion for issuance of the execution. Plaintiff appeared through counsel. Defendant Mary Bissailon ("Ms. Bissailon") appeared self-represented. Based on the credible testimony of the witnesses presented at the hearing, and the reasonable inferences drawn therefrom, the court finds that Plaintiff has demonstrate by a preponderance of the evidence that Defendant' adult son Keith continues to reside in her apartment at 14B Depot Street, #11, Southwick, Massachusetts (the "Premises"). Defendant previously admitted that Keith was living with her in violation of the parties' court agreement signed as a court order on September 12, 2024, and the credible testimony of the witnesses leads the court to conclude that she continues to permit him to reside there frequently. Her claim that Keith visits the Premises most days but does not actually reside there is not credible. She acknowledges that he has no permanent residence but claims he stays with his girlfriend, Kristy Marshall, in a unit downstairs with Mr. Dowd. In a related eviction case heard on the same day, Mr. Dowd denied that Keith lives with him.

Keith's and Ms. Marshall's behavior has been the source of numerous disturbances of other residents of the property. Ms. Bissaillon is well aware of the complaints about her son's behavior on the property. He is present in the Premises with Ms. Bissaillon's permission and despite her knowledge that he is not permitted to live there. Given the court's findings, Plaintiff's motion to issue the execution is ALLOWED.

SO ORDERED.

April 21, 2025


Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-SP-0748

BOACAS MARTINS PROPERTIES, LLC,

Plaintiff

v.

LETICIA CRUZ,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR JUDGMENT

This no-fault summary process case came before the court for a bench trial on April 22, 2025. Plaintiff appeared through counsel. Defendant appeared self-represented. Plaintiff seeks to recover possession of the residential premises located at 778 Page Boulevard, Unit 2, Springfield, Massachusetts from Defendant.

At the outset of trial, the parties stipulated to Plaintiff's prima facie case for possession, including receipt of the notice to quit terminating the tenancy as of February 1, 2025. Defendant's answer contained no legal defenses nor did she articulate any legal defenses at trial. Defendant is current in her rent.

Pursuant to G.L. c. 239, §§ 9 et seq., entry of judgment shall be stayed through June 24, 2025¹ on the terms and conditions set forth herein. The following order shall enter:


¹ From the bench, the undersigned stated that judgment would enter immediately, but given that the eviction sealing statute, G.L. c. 239, § 16, becomes effective May 5, 2025, and because that statute will allow the judgment to be sealed immediately upon request, the court will defer entering judgment until the next court date.

1. Plaintiff is entitled to entry of judgment for possession, but such entry of judgment shall be stayed until at least June 24, 2025 on the condition that Defendant pay her share of the rent (\$438.00) by May 5, 2025 and that she pay \$1,350.00 by June 5, 2025.²
2. If Defendant intends to seek a further stay of judgment or execution at the next court date, she must be able to demonstrate a diligent housing search with a written log showing her efforts to locate replacement housing. She may also bring proof of disability at that time. The court will also consider evidence offered by the landlord if he opposes an order granting Defendant the full statutory stay period.
3. The parties shall return for further hearing on June 24, 2025 at 2:00 p.m. for further hearing consistent with this order.

SO ORDERED.

April ~~22~~ 2025

cc: Court Reporter


Hon. Jonathan J. Kane, First Justice

² Plaintiff sent Defendant a notice raising the rent to \$1,350.00, but subsequently sought an increase in contract rent from Section 8 in the amount of \$1,450.00. Because Defendant does not have input in Section 8's determination of market rent, the court relies upon the rent change notice given to Defendant and rules that the appropriate use and occupancy rate in this case is \$1,350.00.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 22-CV-0317

TOWN OF CUMMINGTON,

Plaintiff

v.

SAUL CASDIN,

Defendant

ORDER ON RECEIVER'S MOTION TO
ESTABLISH PRIORITY LIEN

This code enforcement matter came before the Court on February 10, 2025 for hearing on motion of the court-appointed receiver, Dukes, LLC (the "Receiver"), to establish its lien.¹ The property in question is located at 216 Berkshire Trail Rt 9, Cummington, Massachusetts (the "Property"). Plaintiff (the "Town") and the receiver appeared through counsel. Defendant appeared self-represented.

By way of background, the Town commenced this action on May 4, 2022 to enforce the State Sanitary Code and to abate nuisances at the Property concerning the accumulation of refuse, debris, unregistered vehicles and other items affecting the health, safety, or well-being of the occupants of the Premises or of the general public. See 105 C.M.R. § 410.570 (2023). See also G.L. c. 111, § 123. On February 20, 2024, after numerous motions and hearings over nearly two years, the court found that Defendant was unwilling or unable to

¹ The Receiver's motion requested permission to foreclose on its lien, but such request is premature. The court has not yet established the amount of the lien, so the court treats the motion as one to establish the lien. Also, the court was presented with Defendant's motion to terminate the receivership. The court interprets Defendant's motion as a request to discharge the Receiver with no responsibility for paying the lien. The motion is denied and the reasoning for that denial is incorporated into this order.

correct the code violations and allowed Plaintiff's motion to appoint a receiver. Because the code violations involved an exterior clean-up, the appointment of a receiver was delayed until June 2024, when the weather allowed for safe passage across the Property. On June 21, 2024, the court approved the Receiver's plan to bring the Property into code compliance. Before the Receiver could commence its work, Defendant addressed the code violations himself and the Town subsequently confirmed that all violations were corrected.

Despite not undertaking the actual removal of items from the Property, the Receiver expended time and time complying with the court's orders to prepare a plan for the clean-up. The Receiver attended court hearings and visited the site several times to determine the scope of work. To determine the scope of work, at the court's direction, the Receiver created an itemized list of what items were to be removed from the Property so that Defendant would have the opportunity to review the list and provide input as to whether such items should be removed or otherwise moved in a manner that would achieve code compliance.

Throughout the process, Defendant challenged the Town's intentions in requiring him to correct code violations and abate the nuisance. He objected to the need for a receiver and questioning the list created by the receiver. Further, at various times throughout the duration of this case, Defendant refused to allow certain officials from the Town, including the Health Inspector, to enter onto the Property.² Defendant's conduct caused the Receiver to spend more time on this project than might have otherwise been necessary, and the court

² To create an efficient and fair process for inspecting the Property for purposes of determining the extent of the clean-up, the court sent two of its Housing Specialists to the Property to work with the Receiver and Defendant and create a report for the court to review.

must consider the totality of the circumstances faced by the Receiver in establishing the amount of the Receiver's lien.

The Receiver filed a single report with this court, and it is conclusory in nature. It shows that the Receiver spent 33 hours of time (at \$150.00 per hour) on the project, including two court appearances, four site visits and time "preparing documents." The Receiver did not itemize or explain how the 33 hours were expended, leaving the court to use its discretion in determining the fair amount of time spent on the project.³ Given that the Receiver operates its business in Amherst, Massachusetts and the Property is in Cummington, Massachusetts, the Receiver likely incurred seven or eight hours of travel time. Over four site visits, one with Housing Specialists present, and considering the complications Defendant created by refusing to allow the Health Inspector onto the property, it is reasonable to expect that the Receiver was on-site for somewhere between 10 and 20 hours in total. After adding in the time needed to obtain insurance, appear in court, communicate with counsel regarding its obligations and preparing the list of items to be removed from the Property, the court finds that the 33 hours of time expended on the project is reasonable. The court further finds that the hourly rate of \$150.00 is reasonable.

Separate from the Receiver's time, the court has been presented with the Receiver's legal fees. The court reviewed counsel's time records using the "lodestar" method. Simply put, under the "lodestar" method, the court multiplies the number of hours reasonably spent by the attorney by a reasonable hourly rate. Here, the court finds both the time expended and the hourly rates charged to be reasonable, and the total amount of \$2,419.58

³ The court notes that the Receiver also obtained a certificate of liability insurance as part of its duty as Receiver.

in legal fees to be a reasonable figure considering the complexity and duration of this matter.

Pursuant to G.L. c. 111, § 127I, the Receiver has a lien with priority over all other liens or mortgages except municipal liens. Before the court considers permitting the Receiver to perfect its lien by foreclosure of the Property, the court shall allow Defendant a reasonable amount of time to pay the lien in full, thereby avoiding the foreclosure process.

Accordingly, after hearing, the following order shall enter:

1. The Receiver's lien is hereby established in the amount of \$7,369.58.
2. Defendant shall have until May 31, 2025 to pay the Receiver's lien of \$7,369.58 in full.⁴ Payment shall be made in immediately available funds (e.g. bank check) to Receiver's counsel, and upon receipt of the funds. Receiver's counsel shall so notify the court. Upon notification that the Receiver's lien has been satisfied, the court will dissolve the receivership, discharge the Receiver, and dismiss this case.
3. If the Receiver's lien has not been satisfied by May 31, 2025, the Receiver may ask the court to reschedule its motion to foreclose on its lien by selling the Property. In such motion, the Receiver shall justify the method of sale if by public auction instead of listing on MLS.
4. If the Receiver wishes to sell the Property by public auction, the Receiver shall provide a draft of the Notice of Sale and shall provide a proposed notice to be given to be given to junior lienholders and to potential bidders at auction. The

⁴ Defendant filed a motion to "stay execution" which the court interprets to be a request to delay all proceedings, including the establishment of the Receiver's lien, based upon his allegations that certain Town officials are corrupt and that false complaints have been made against him. He has apparently made public records requests and filed a claim against the Town under the Massachusetts Tort Claims Act. The court is unwilling to delay these proceedings while Defendant seeks legal redress for other claims he may wish to bring against the Town, claims over which this court likely has no jurisdiction.

Receiver shall also inform the court of all other details necessary for the court to approve the public auction process.

SO ORDERED.

April 22, 2025



Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-1754

RICK WHITE,

Plaintiff,

v.

MATTHEW ABAIR, et al.,

Defendants.

ORDER

After hearing on April 15, 2025, on the plaintiff landlord's motion for entry of judgment, at which both the landlord and the tenant Matthew Abair appeared, the following order shall enter:

1. Matthew Abair became a *bona fide* tenant at the last hearing before the court on October 28, 2024, by agreement of the parties and court order.
2. Matthew Abair shall be added as a party-defendant in this matter.
3. The landlord has met his burden that the tenants failed to comply in recent months with the rent payments required by the last agreed-upon court order.

4. Judgment shall enter for the landlord for possession and for \$3,890 and court costs against Cornelio Rivera.
5. A separate judgment shall enter for the landlord for possession *only*, with no damages or court costs, against Matthew Abair.
6. The landlord may obtain an execution upon the timely filing and service of a Rule 13 Application but there shall be a stay on the use of the execution contingent upon the tenant paying use and occupancy in the amount of \$200 on April 15, \$550 on April 28, 2025, \$375 on the 14th of May and June and \$375 on the 28th of May and June, 2025---as long as the tenant is occupying the premises.
7. The landlord may use the execution on July 1, 2025, or thereafter.
8. The stay provision of paragraph 6 above shall toll the three-month lifespan of the execution in accordance with G.L. c.235, s.25.

So entered this 22 day of April, 2025.



Robert Fields, Associate Justice
Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-CV-0204

IVETTE FIGUEORA,

Plaintiff

v.

DOUBLE K, LLC,

Defendant

RULING ON PLAINTIFF'S
COMPLAINT FOR CONTEMPT

This case came before the Court on March 13, 2025 on Plaintiff's complaint for contempt. Both parties appeared through counsel. The property in question is located at 803 High Street, 3L, Holyoke, Massachusetts (the "Premises"). Plaintiff alleges that Defendant failed to repair all problems in the Premises and provide documentation of work completed as required in court orders from March 26, 2024, May 14, 2024, June 14, and September 9, 2024 (following an August 29, 2024 hearing).

At the outset of the trial, the court concluded that it was in the interests of judicial economy to defer any determination regarding contempt until after a trial on damages.¹ The instant hearing was limited to the issue of remaining repairs as identified in the Notice of Violation issued by the Holyoke Board of Health dated March 4, 2025.

Following hearing, the following order shall enter:

¹ To consider the issue of contempt, the court would have to conduct a full trial that would require much of the same evidence that will be offered in the civil trial on damages. After the evidence in the damages trial has been taken, Plaintiff may renew its request for sanctions for contempt, including reasonable attorneys' fees.

1. Defendant's agents shall enter the Premises at 9:00 a.m. on March 14, 2025 to complete the repairs cited in the March 4, 2024 Notice of Violations.² If additional access is needed to complete the work, Defendant shall provide at least 24 hours' advance written notice. Plaintiff shall not unreasonably deny access for said repairs.
2. Defendant shall continue to schedule exterminations every two weeks until the infestation is substantially eliminated or further court order, whichever occurs first. Plaintiff shall take appropriate steps to prepare her unit for treatment.³ She must permit access to all rooms in the Premises.
3. All claims and defenses related to civil damages shall be reserved for trial.

SO ORDERED.

DATE: April 23, 2025



Hon. Jonathan J. Kane, First Justice

cc: Court Reporter

² At the hearing, Plaintiff agreed to give access at this time.

³ Based on the testimony of Jeffrey Davis of Nukingstreet Pest & Wildlife Control, Plaintiff must discard items contaminated with roaches (such as boxes containing food products), move items away from walls (particularly clothing and clothes racks) and generally reduce clutter.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0329

IRIS SANTOS,
Plaintiff

v.

9092 HIGH SPRINGFIELD MA LLC,
Defendant

ORDER TO REMOVE
UNAUTHORIZED OCCUPANTS

This matter came before the court on April 22, 2024 for continued hearing on Plaintiff's verified complaint for injunctive relief. Plaintiff appeared self-represented. Defendant did not appear after notice. This case involves a residential apartment located at 92 High Street, Springfield, Massachusetts (the "Premises")

Based on the facts set forth in the verified complaint and Plaintiff's testimony, and after reviewing a lease for the Premises in Plaintiff's name and a police report supporting Plaintiff's testimony, the Court finds that Plaintiff has been displaced from the Premises by one or more unauthorized persons who took possession by force and ejected Plaintiff. Plaintiff is now unhoused.

Plaintiff has satisfied the standard for equitable relief. She has no adequate remedy at law and is likely to prevail on the merits that she and her family are the sole lawful occupants of the Premises. Further, Plaintiff is likely to suffer immediate and irreparable harm if the injunctive relief is denied.

Accordingly, the following order shall enter:

1. Plaintiff and her son Joshua are the only lawful occupants of the Premises. All occupants of the Premises other than Plaintiff and her son are trespassers and have no legal right to remain in the Premises. The Springfield Police Department is hereby authorized to remove such trespassers from the Premises and Plaintiff may then change the locks.
2. If anyone occupying the Premises believes he or she has a lawful right to reside there, such person shall file a motion in the Western Division Housing Court to show cause why they should be allowed to remain at the Premises.
3. A capias shall issue for Alex Cwiakala, 18 Sachem Street, Quincy, Massachusetts 02170 for his appearance on May 6, 2025 at 2:00 p.m. At such time, Mr. Cwiakala shall show cause as to why he should not be ordered to immediately provide Plaintiff with safe and secure housing as required by Massachusetts law.
4. The parties shall return for hearing on matters consistent with this order on May 6, 2025 at 2:00 p.m.
5. The legislative fee for injunctions is waived.

SO ORDERED.

April 23, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter