

Western Division Housing Court
Unofficial Reporter of Decisions

Volume 6

Dec. 21, 2020 — Jan. 13, 2021

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. Presently, 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, and the local tenant bar:

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

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

Hon. Michael Doherty, Clerk Magistrate, *Western Division Housing Court*

Aaron Dulles, Esq., *Massachusetts Attorney General’s Office*¹

Peter Vickery, Esq., *Bobrowski & Vickery, LLC*

Messrs. Dulles and Vickery serve as co-editors for coordination and execution of this project.

OUR PROCESS

The Court has agreed to set 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 copies of decisions directly from advocates, which helps ensure completeness. When the editors have gathered a sufficient quantity of pages to warrant publication, they compile the decisions, review the draft compilation with the Court for approval, and publish the new volume. Within each volume, decisions are assembled in chronological order. The primary index is chronological, and the secondary index is per-judge (or clerk). The editors publish the volumes online and via an e-mail listserv. Additionally, the Social Law Library receives a copy of each volume. The volumes are serially numbered, and they generally correspond to an explicit time period. But, for several reasons, each volume may also include older decisions that had not been available when the prior volume was assembled.

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

¹ Formerly of Community Legal Aid, and historically associated with the local tenant bar.

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.

Exclusion by the Editors. The editors will exclude material if one or more of the following specific criteria are met:

1. Case management and scheduling orders.
2. Terse orders and rulings that, due to a lack of sufficient context or background information, are clearly unhelpful to a person who is not familiar with the specific case.
3. Orders detailing or discussing highly sensitive issues relating to minors, mental health disabilities, specific personal financial information, and/or certain criminal activity. As applied to decisions involving guardians ad litem or the Tenancy Preservation Program, this means those decisions are not automatically excluded by virtue of such references alone, however they are excluded if they reveal or fairly imply specific facts about a party's mental health disability.

The editors make their decisions by consensus, applying their best good faith judgment. In certain circumstances, the editors will employ redactions during this process.

In certain circumstances, the editors may elect to confer further with the Court before deciding whether to exclude a decision based on references to confidential information (*e.g.*, information relating to minors, medical records, domestic-relations matters, substance use, and guardian ad litem reports) that might lead to the public disclosure of private facts. If the editors or the Court chose to exclude a decision after such a review, the editors will revise the exclusion criteria to reflect the principles that led to that determination.

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 anybody who wishes to receive new volumes by e-mail when they are released. Those wishing to sign up for the listserv should e-mail Aaron Dulles, aaron.dulles@mass.gov.

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:
0C7A FBA2 099C 5300 3A25 9754 89A1 4D6A 4C45 AE3D

CONTACT US

Comments, questions, and concerns may be raised to any person involved in this project. Out of respect for the Court's time, please direct such communications at the first instance to Aaron Dulles (aaron.dulles@mass.gov) and/or Peter Vickery (peter@petervickery.com).

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receiving.³ Accordingly, Plaintiff has satisfied all elements of his prima facie case for possession and damages.

Defendant filed an answer in which he claimed to be legally withholding rent. At trial, however, Defendant declined to pursue this defense. He testified that he was not withholding rent and did not dispute that he owed the amount of rent claimed by Plaintiff. He did not raise any other legal defenses; instead, he testified that he had not moved because he could not find a home he could afford. He further testified that he was working with agencies, including Way Finders, to find a place to live, but stated that he did not know how long it might take to find replacement housing. When asked if he was able to pay for his use and occupancy of the Premises while he was attempting to find housing, he said he would not be able to pay Plaintiff because it would leave him without sufficient money to move. Although the Court empathizes with Defendant's situation, he has provided the Court with no basis to delay entry of judgment.

Based on the credible testimony, the evidence presented at trial and the reasonable inferences drawn therefrom, and in light of the governing law, it is ORDERED that judgment shall enter for the Plaintiff for possession and damages in the amount of \$10,320.00, plus court costs. If Defendant wishes to present reasons why the physical eviction should be delayed, he may file a motion to stay use of the execution. If such a motion is filed, Plaintiff shall not proceed with the eviction until after a hearing on Defendant's motion.

SO ORDERED, this 21st day of December, 2020.

By: 
Jonathan J. Kane, First Justice

³ The notice contains a handwritten notation of "January 1, 2020" that might have rendered it defective had it created confusion on the part of Defendant, but Defendant denied that he was confused by the notation and, accordingly, the Court finds that the handwritten date had had no meaningful practical effect. *See Cambridge Street Realty, LLC v. Stewart*, 481 Mass. 121, 130 (2018).

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

DOCKET NO. 19-SP-2534

DHV INC.,

Plaintiff,

v.

ORDER

**TIFFANY TORRES &
JONATHAN TORRES,**

Defendants.

This matter came before the court on December 21, 2020 on the defendant (tenant) Tiffany Torres' motion for what the court deems to be a stay of the execution (eviction order). The plaintiff was represented by counsel and the defendant Ms. Torres was self-represented at the hearing.

This is a non-payment of rent case. A review of the file shows that the parties have entered into several Agreements and Agreements for Judgment since the initial Agreement on July 18, 2019. All Agreements after that date included a date by which the tenants agreed to move out of the premises. The most recent provided for a move-out date of March 31, 2020. However, by then, the coronavirus pandemic had struck and there was a moratorium on evictions. After the Massachusetts moratorium expired on October 18, 2020, the landlord requested and received a new execution for possession and money damages. The landlord filed what was then an accurate Plaintiff CDC Affidavit in compliance with the CDC Order (85 Fed. Reg. 55292).

Ms. Torres testified that she and her family were unable to move as they agreed to do by March 31, 2020 because of financial hardships caused by COVID (shutdown of her husband's job as of March 22, expiration of his unemployment benefits and federal COVID supplement, necessity for one parent to be home while their children are attending school remotely). She requested a further stay of the execution until March 31, 2021. At the time of the hearing, the defendants had not filed a Declaration under Penalty of Perjury for the CDC Temporary Halt in Evictions to Prevent Further Spread of COVID-19.

The landlord objected to a further stay of the execution on the grounds that despite Mr. Torres' receipt of unemployment and supplement benefits and Ms. Torres' current employment by the Post Office, they have not paid any rent/use and occupancy since July when the June rent was paid. The landlord argued that the defendants are not eligible to seek protection from a move-out under the CDC moratorium Order because they have not attempted to pay any rent since July but have obtained a new car. However, he reported that he would abide by the court's decision in this matter. Ms. Torres agreed that they have a new car, but testified that the down payment was paid by a family member.

Order

After hearing the following orders will enter:

1. Use of the execution is stayed to February 28, 2021 on condition that the tenants pay the \$900 rent/use and occupancy as it becomes due. To the extent that the CDC moratorium Order is extended beyond December 31, 2020, that Order will supersede this order and the landlord may use the execution to move the defendants out of the apartment only in compliance with the applicable CDC Order.
2. The tenants will contact the Clerk's Office to learn how to obtain a copy of the Declaration under Penalty of Perjury for the CDC Temporary Halt in Evictions to Prevent Further Spread of COVID-19 form. They will review it, with an attorney if they wish, to determine if they are eligible to complete the Declaration. If so, they will submit it to the landlord's attorney.
3. Ms. Torres reported that she had started a RAFT application. She will contact RAFT to determine what benefits, if any, her family is eligible to receive at this time to assist them with moving to a new apartment.
4. Because the execution which the court issued on October 26, 2020 will expire before its possible use, the plaintiff may return the execution to the court and request a new execution, if needed. Such request will be accompanied by an affidavit.

So entered this 28th day of December, 2020

Fairlie A. Dalton

Fairlie A. Dalton, J.

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

DOCKET NO. 20-SP-138

JANINA PIELECHA,

Plaintiff,

v.

ORDER

TANYA WILKERSON,

Defendant.

This matter came before the court on December 21, 2020 on the plaintiff (landlord)'s motion for issuance of execution (eviction order) on the grounds that the defendant (tenant) has failed to comply with the repayment terms of the parties' January 23, 2020 Agreement for Judgment. At the time of the hearing, the tenant owed \$13,035 in unpaid rent/use and occupancy and \$180.58 costs. The plaintiff's attorney and the defendant were present at the hearing, as well as a representative of Wayfinders, the local agency administering the RAFT and ERMA programs.

As required pursuant to the CDC moratorium Order (85 Fed. Reg. 55292), the landlord filed a Plaintiff's Affidavit Concerning CDC Order on October 21, 2020. It was accurate at the time it was filed because the tenant had not submitted a Declaration under Penalty of Perjury for the CDC Temporary Halt in Evictions to Prevent Further Spread of COVID-19 to date. However, at the hearing she testified that her inability to pay what she had agreed to pay was due to financial hardships caused by the COVID pandemic. After the hearing she submitted the CDC Declaration which the court accepts. There is no time limit within which such a Declaration may be submitted.

Because the court finds that this non-payment of rent case falls within the CDC moratorium Order, no execution may issue at this time. As stated at the hearing, an amended judgment will enter for the landlord for possession and \$13,035 in unpaid rent/use and occupancy with \$180.58 costs. During a recess in the hearing, the defendant met with the representative from Wayfinders who agreed to expedite the RAFT application to the extent possible. This could provide \$10,000 in financial assistance; she also agreed to seek an

additional \$4,000 from a fund administered by the City of Springfield. The tenant agreed to pay the January use and occupancy when it becomes due.

Order

After hearing, the following orders will enter:

1. An amended judgment will enter for the plaintiff for possession and \$13,035 in damages with \$180.58 costs.
2. The plaintiff's motion for issuance of execution is **DENIED** pursuant to the CDC moratorium Order. Any further request for issuance of execution will be done in compliance with the CDC Order then in effect, if any, pursuant to the defendant's Declaration as filed on December 21, 2020.
3. The defendant will use her best and consistent efforts to obtain funding from RAFT and the City of Springfield. She or her representative will communicate on a regular basis with the landlord's attorney to keep him up to date on the status of her applications. Counsel will discuss the availability of such financial assistance with his client in good faith.
4. The defendant will pay her rent/use and occupancy as it becomes due beginning in January 2021.

So entered this 28th day of December, 2020

Fairlie A. Dalton

Fairlie A. Dalton, J.

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. 19-SP-3725**

<p>SHERIDAN CIRCLE HOUSING COOPERATIVE, INC.,</p> <p style="text-align:right">Plaintiff,</p> <p>v.</p> <p>JEREMY WOODS, et al.,</p> <p style="text-align:right">Defendant.</p>	
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ORDER

After hearing on December 8, 2020, at which the plaintiff appeared through counsel and the defendant appeared with Lawyer for the Day Counsel, and at which a representative of the Tenancy Preservation Program appeared, the following order shall enter:

1. For the reasons stated on the record, the stay on the use of the execution shall remain in effect until further order of the court.

2. The Tenancy Preservation Program (TPP) shall review this matter to consider fully opening a case for Mr. Woods in light of his continued occupancy and the disabilities of [REDACTED].
3. Mr. Woods shall continue to work with TPP and [REDACTED] [REDACTED] and other relevant resources to access greater services for [REDACTED].
4. Mr. Woods shall pay his monthly use and occupancy in full and timely.
5. Priscilla Gonzalez shall not be permitted at the premises.
6. Community Legal Aid has agreed to review this matter for further consideration of whether it can provide Mr. Woods with representation directly or through a referral to its *pro bono* bar. It has also agreed to appear at the next hearing, even it has not filed an appearance in this matter.
7. The parties shall all engage in a Reasonable Accommodations dialogue regarding the tenancy and the effect of [REDACTED] disabilities on same.
8. This matter shall be scheduled for a review hearing on January 28, 2021 at 9:00 a.m. The Clerks Office shall provide written instructions to the parties to assist them in participating in the hearing by Zoom. Mr. Woods shall provide the parties and the court with a mailing address for Priscilla Gonzalez upon receipt of this order.

So entered this 28th day of December, 2020.



Robert Fields, Associate Justice

Cc: Amanda Winalski, Esq., Community Legal Aid
Tenancy Preservation Program

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 19H79SP002842

SPRINGFIELD HOUSING AUTHORITY,)
)
Plaintiff)
)
v.)
)
ARTHUR MCDONALD,)
)
Defendant)
_____)

ORDER

After a Zoom hearing on December 29, 2020 at which Plaintiff's counsel appeared, Defendant appeared without counsel, and at which Ms. Sanchez from Tenancy Preservation Program ("TPP") participated, the following Order shall enter:

1. The physical eviction scheduled for January 6, 2021 shall be cancelled.
2. Defendant is ordered to meet with Ms. Sanchez or other representatives of TPP and follow their recommendations regarding the alleged lease violations (smoking in the unit, disruptive visitors, housekeeping), rental payments and rental assistance options.
3. Because it appears that Defendant needs to relocate to a different residential setting that better meets his needs, he shall seek replacement housing and shall cooperate with TPP or other services recommended by TPP for this purpose.
4. Beginning in January 2021 and each month thereafter, Defendant shall pay use and occupancy (rent) of \$284.00 plus an additional \$35.00 to be applied to his rent arrears of \$713.53 and court costs of \$250.00 (the sheriff's fee for service of the 48-hour notice). Defendant shall seek RAFT or other rental assistance to pay the balance in full but is responsible

for making the payments described in the previous sentence until such time as the balance is paid. Defendant shall enroll (or re-enroll as the case may be) in Rent Secure if it is recommended by TPP.

5. Defendant shall not smoke in his unit, nor allow anyone else to smoke in his unit.

6. Defendant shall have no guests at all in his unit until further order of this Court.

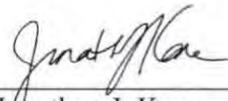
This prohibition applies only to social guests and does not apply to service or health care providers.

7. Defendant shall clean his unit so that it passes a housekeeping inspection. He shall accept any cleaning services recommended by TPP.

8. Defendant shall not be entitled to any further stays if he cannot demonstrate that he is making a good-faith effort to comply with the conditions in this Order.

9. The parties (along with a representative from TPP) shall appear in Court for review of Defendant's compliance with this Order at **10:00 a.m. on February 3, 2021.**

SO ORDERED, this 30th day of December, 2020.



Jonathan J. Kane
First Justice

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. 19-SP-3924
19-CV-549

PHEASANT HILL VILLAGE ASSOCIATES, L.P.,

Plaintiff,

v.

**MARIA LABOSCO and THOMAS
TROUGHTON,**

Defendants.

ORDER

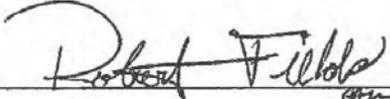
After hearing on December 21, 2020 on the plaintiff landlord's motion for injunctive relief, at which the landlord appeared through counsel and the defendant tenant Maria Labosco appeared with Limited Appearance Representation (LAR) and co-defendant tenant Thomas Troughton appeared *pro se*, the following order shall enter:

1. For the reasons stated on the record, the landlord's motion for an order removing the tenants from the subject premises pending trial is denied, without prejudice.

2. That said, the tenants are enjoined from engaging in any criminal activity at the premises. If the landlord alleges that either or both tenants are engaging in criminal activity, and wishes to seek further injunctive relief, it may file a motion describing the alleged behavior---with dates and the identify of any and all witnesses---and a hearing may be scheduled by the court within three business days on same. If at the time of filing of such a motion, if either of the tenants is not represented by an attorney, a courtesy copy shall be served by the landlord upon attorney Uri Strauss at Community Legal Aid.
3. For the reasons stated on the record, the default entered against Mr. Troughton shall be vacated.
4. If the landlord wishes to file a motion for Summary Judgment, it must do so by January 15, 2121 and opposition to same shall be due by no later than January 29, 2121. A hearing on said motion shall be scheduled for February 12, 2121 at 9:00 a.m.
5. A one-day trial is scheduled for **March 1, 2121 and shall begin at 9:00 a.m.** Any proposed exhibits shall be filed with the court and a copy provided to the other side at least forty-eight (48) hours before the trial date. The Clerks Office shall provide written instructions to the parties on how to participate in the trial by Zoom.
6. If Community Legal Aid can not provide the tenants with representation going forward, it shall make its best efforts to refer this matter to their *pro bono* counsel list. In addition to sending this order to the landlord's counsel and the

tenants directly, the Clerks Office shall also send a courtesy copy to Uri Strauss, LAR counsel.

So entered this 4th day of January, 2020.



A handwritten signature in cursive script, appearing to read "Robert Fields", is written over a horizontal line. There is a small mark below the signature that looks like "(RM)".

Robert Fields, Associate Justice

Cc: Uri Strauss, LAR counsel

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. 20-SP-1117**

BEACON RESIDENTIAL MANAGEMENT, L.P.,

Plaintiff,

v.

HUDSON COLLINS and BRANDY-LEE FUNK,

Defendants.

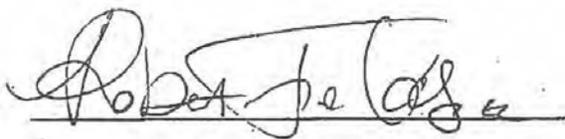
ORDER

After hearing on January 4, 2021, on the defendant tenants' oral motion for late filing of an Answer and Discovery Demand, at which the plaintiff landlord appeared through counsel and the tenants appeared with Limited Appearance Representation counsel, the following order shall enter:

1. For the reasons stated on the record, the motion is allowed.
2. The tenants shall have until January 15, 2021 to file and serve an Answer and a Discovery Demand.

3. The landlord has until January 21, 2021 to propound discovery on the tenants.
4. All parties have until February 2, 2021 to respond to discovery.
5. Although Attorney Strauss' limited appearance shall technically end with today's hearing, copies of all court notices and filings by the parties shall be courtesy copied to him until either the tenants are otherwise fully represented by counsel or with leave of court.
6. A Case Management Conference shall be conducted by the Clerks Office on **February 3, 2021 at 11:00 a.m.** The Clerks Office shall provide the parties with Zoom instructions for participation in said conference.

So entered this 6th day of January, 2021.



Robert Fields, Associate Justice

Cc: Uri Strauss, Community Legal Aid (LAR counsel for the tenants)

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. 19-SP-4499

BRENDA YOUNG,

Plaintiff,

v.

SHANA and IAN GAIDA,

Defendant.

ORDER

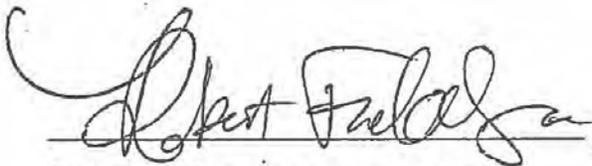
After hearing on January 4, 2021 on review of this matter, the following order shall enter:

1. The tenants filed a CDC declaration on November 17, 2020.
2. Additionally, the tenants filed an application for RAFT funds from the Commonwealth in November, 2020, which is currently pending.
3. In accordance with the CDC Order entitled *Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19*, 85 Fed. Reg. 55,292

(September 4, 2020), and pursuant to very recently enacted state law (formerly HB No. 5181), there shall be a stay on the use of the execution.

4. This matter is scheduled for review on **February 4, 2021 at 11:00 a.m.** The Clerks Office shall provide instructions for the parties to participate by Zoom.
5. The landlord was provided the number for the Hampden County Bar Association at 413-732-4648. Additionally, the tenants may wish to reach out to Community Legal Aid at 413-781-7814 for legal assistance. Additionally, the tenant was moved into the Zoom breakout room for RAFT to ascertain the status of her application.

So entered this 6th day of January, 2021.



Robert Fields, Associate Justice

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. 19-SP-4632

BERKSHIRE PROPERTY MANAGERS, INC.,

Plaintiff,

v.

ALAN KISTLER and KRYSTAL FITZGERALD,

Defendants.

ORDER

After hearing on January 6, 2021 on the tenants' emergency motion to stay the levying on the execution, at which all parties appeared, the following order shall enter:

1. The parties all report that the tenants provided the landlord with a signed declaration pursuant to the Centers for Disease Control Order Temporarily Halting Residential Evictions to Prevent Further Spread of COVID-19, at 85 Fed. Reg. 55,292 (September 4, 2020, hereafter, "CDC declaration").

2. Accordingly, and pursuant to same, the tenants' motion is ALLOWED and the physical eviction scheduled for today, January 6, 2021 is cancelled as this is a summary process action based on a non-payment of rent and a CDC declaration has been provided by the tenants to the landlord (and to the court).
3. The landlord indicated that it wishes to challenge the veracity of the CDC declaration, specifically the tenants' assertion therein that they have made their best efforts to make partial payments towards rent/use/occupancy.
4. The court informed the parties that it could schedule the filing of a motion and hearing on said challenge and the landlord declined to schedule a hearing at this time. The parties were also informed that if the landlord decides to file same, it shall coordinate with the court's Clerks Office for said scheduling and that if it wished to conduct discovery on that issue in advance of a hearing, it will have to seek leave of court before doing so.

So entered this ^{4h} 7 day of January, 2021.



Robert Fields, Associate Justice

Am.

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. 19-SP-3491**

U.S. BANK, N.A.,
Plaintiff,
v.
CHARLENE DICKERSON et al.,
Defendants.

ORDER

After hearing on January 6, 2021 on the plaintiff's motion for summary judgment as well as other motions, the following order shall enter:

1. For the reasons stated on the record, the summary judgment motion is denied and the matter is to be scheduled for trial.
2. The cross motions to strike and for sanctions are denied.
3. This matter shall be scheduled for a final pretrial conference on February 5, 2021 at 11:00 a.m. Counsel for the parties shall make their best effort

to narrow the evidentiary matters that require hearing at trial and to stipulate to pre-mark documentary evidence required at trial. LAR counsel Uri Strauss has agreed to extend his representation to appear at said conference.

4. Proposed exhibits and witness lists as well as motions in limine shall be filed with the court and a copy provided to the other side at least forty-eight (48) hours before the pretrial conference.
5. A SUMMARY PROCESS TRIAL shall be held on February 22, 2021 at 9:00 via ZOOM.
6. Pre-trial motions, proposed exhibits and witness lists shall be filed with the court and a copy must be sent to either other party or their attorney. They may be sent by email to WesternHousingCourt@jud.state.ma.us, by fax to (413) 732-4607, by mail to 37 Elm Street, P.O. Box 559, Springfield, MA 01102 or may be dropped off at the clerk's office at 37 Elm Street, Springfield. The parties are responsible for providing the zoom information sheet to their witnesses prior to trial.
7. On the day and time of the trial, you are required to:

Go to zoom.us

Click "Join a Meeting"

Meeting ID: 161 638 3742

Enter your Name

Password: 1234

Select to connect with audio and video

Click "Join"

So entered this 7th day of January, 2020.



Robert Fields, Associate Justice

Am.

NOTE: Copies of this Order shall be sent to counsel for the plaintiff and to the defendants directly but also a copy to Attorney Uri Strauss, whose LAR appearance has been extended through to the next hearing.

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. 18-SP-702

COLONIAL VILLAGE, LLC.,
Plaintiff,
v.
GLENN BROOKS,
Defendant,
v.
PRESIDENTIAL DEVELOPMENT COMPANY,
LLC., and KAMINS OF AMHERST, INC.,
Third Party
Defendants.

ORDER

After hearing on January 7, 2021 on Colonial Village, Inc. and Kamins of Amherst, Inc.'s (hereinafter jointly referred to as "landlord") motion for reissuance of tl

execution for possession, at which all parties appeared through counsel, the following order shall enter:

1. The parties stipulated that counsel for Glenn Brooks (hereinafter, "tenant") provided counsel for the landlord a CDC Declaration dated October 7, 2020.
2. The landlord seeks to challenge the veracity of the CDC Declaration and, as such, asserts that the tenant is not protected by the CDC Prevention Order Temporarily Halting Residential Evictions to Prevent the Further Spread of COVID-19, at 85 Fed. Reg. 55,292 (September 4, 2020).
3. The landlord did not present a witness to testify and establish a basis for its challenge to the veracity of the CDC declaration but instead, referred to facts that were established at trial in November, 2019 as such a basis.
4. As stated on the record at the hearing, the landlord has not met its burden that there is a basis to challenge the averments of the tenant's CDC Declaration.
5. Additionally, counsel for tenant has agreed to have the tenant apply for emergency funds that are identified as applicable in Chapter 227 of the Acts of 2020.
6. Accordingly, there shall be a stay on the use of the execution and no new execution may be applied for or issued pending further order of the court.
7. This matter is scheduled for Review on **February 18, 2021 at 9:00 a.m.** The Clerks Office shall provide written instructions on how to participate in said hearing by Zoom.

So entered this 8th day of January, 2021.

A handwritten signature in cursive script, appearing to read "Robert Fields", is written over a horizontal line.

Robert Fields, Associate Justice

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 19-SP-2361

4 HARPS, LLC
PLAINTIFF

V.

FELMARY ALICEA,
DEFENDANT

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INTERIM ORDER

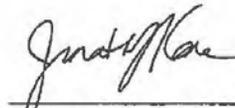
On January 11, 2021, this matter came before the Court for a video-conference hearing on Plaintiff's motion for issuance of the execution. Plaintiff appeared through counsel; Defendant appeared and represented herself.

By way of background, the parties entered into an Agreement for Judgment with judgment entering June 27, 2019 if Defendant failed to comply with its terms. Defendant agreed to vacate on November 20, 2019 but failed to do so. Plaintiff's counsel represented that the unpaid balance of use and occupancy (rent) owed to Plaintiff through January 2021 is \$8,200.00. Currently, Plaintiff is housing Defendant in a hotel as a result of a wall collapse in the building in which Defendant resides.

The Court is satisfied that Defendant meets the criteria set forth in Chapter 257 of the Acts of 2020, thereby precluding the Court from issuing an execution at this time. Accordingly, the Court shall continue this motion to **February 4, 2021 at 9:00 a.m.**, at which time Defendant shall report on her progress in obtaining assistance to pay Plaintiff and/or to move, and on the status of her pending unemployment application. The Court will consider making an interim

payment order if Defendant is receiving unemployment compensation even if the Court is unable to issue an execution.

SO ORDERED this ^{7th}12 day of January, 2021.



Jonathan J. Kane
First Justice

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

HAMPDEN, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. ¹⁹20SP2034

FEDERAL HOME LOAN MORTGAGE
CORPORATION,

Plaintiff,

v.

ANY AND ALL OCCUPANTS, JOSEPH CRUZ
NAISHA L. WORSTER A/K/A NAISHA L.
CORE.,

Defendants,

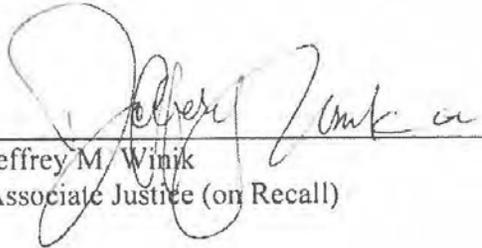
ORDER

After hearing on January 11, 2021, at which all parties appeared, the following order shall enter:

1. The summary process claim for possession shall be dismissed without prejudice.
2. Defendants' counterclaims shall be transferred to the civil docket and be assigned to "F" track. The claims shall proceed jury-waived as the defendants did not make a written jury demand.
3. Upon provision of reasonable advance written notice (minimum 48 hours) to the defendants from the plaintiff, the defendants shall allow plaintiff (and its agents) unimpeded access to the premises to inspect and make repairs necessary to bring the

premises into compliance with the state sanitary code and Section 8 regulations. This order shall be entered on the dockets of the summary process action and the newly created civil action.

SO ORDERED.



Jeffrey M. Winik
Associate Justice (on Recall)

January 12, 2021

COMMONWEALTH OF MASSACHUSETTS

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

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 20-SP-416

BEACON RESIDENTIAL
MANAGEMENT LP,
Plaintiff

v.

ORDER FOR ISSUANCE OF EXECUTION
(*EVICITION ORDER*)

ISAMAR AYALA ALBELO,
Defendant

1. This is a summary process action in which the Plaintiff seeks issuance of an execution to recover possession of the subject premises. Judgment entered on February 19, 2020.
2. The Plaintiff was represented by counsel at the hearing held on January 11, 2021.
3. The Defendant did not appear after notice.
4. The Plaintiff filed an Affidavit Concerning CDC Order attesting that it has not received a declaration from the Defendant as provided in the CDC Order.
5. Execution (eviction order) shall issue forthwith for possession, rent in the amount of \$7,752.50 and costs in the amount of \$178.70.
6. *Plaintiff voluntarily agrees not to use the execution to conduct a physical move-out before March 31, 2021*

SO ORDERED
DATE: January 13, 2021

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

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 19-SP-0772

EDELINE GONZALEZ,)
)
 PLAINTIFF)
)
 V.)
)
 PYNCHON II APARTMENTS LP ET AL.,)
)
 DEFENDANTS)

ORDER

On December 31, 2020, this matter came before the Court for a video-conference hearing on Defendant’s motion to compel discovery. The parties appeared through counsel. At the conclusion of the hearing, the Court agreed to hold the record open until January 8, 2021 to allow additional exhibits to be filed.

After review of the parties’ briefs and exhibits, and following argument made at the December 31, 2020 hearing, the motion is DENIED. As reasons therefore, the Court states as follows:

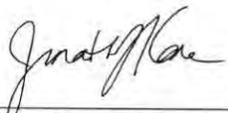
Defendants contend that Plaintiff’s responses to their interrogatories and document requests were incomplete and evasive, primarily (and nearly exclusively) around the issue of the calculation of damages. Plaintiff contends that her discovery responses are sufficient, particularly given that she references (and attaches as an exhibit to her responses) a letter dated May 8, 2019 sent to Defendants pursuant to G.L. c. 93A (the “c. 93A letter”). The Court finds that the interrogatory responses, read in conjunction with the 93A letter, are adequate, and it has been

given no reason to believe that there are documents that have been withheld or that Plaintiff is not acting in good faith.

Plaintiff argues that Defendants' motion makes several frivolous requests and that she should be award reasonable expenses, including attorneys' fees, associated with opposing the motion pursuant to Rule 37 of the Massachusetts Rules of Civil Procedure. The Court does not find Defendants' motion to be frivolous nor asserted with the goal of causing Plaintiff to incur additional and unnecessary time and expense. The motion to compel was well-drafted, substantive and seeks relevant information.

In light of this Order, the deadline for depositions shall be extended to February 1, 2021, the deadline for filing dispositive motions shall be extended to February 19, 2021, and a hearing on such dispositive motions shall be scheduled by the Court thereafter. The date of the final pretrial conference shall remain March 17, 2021.

SO ORDERED this 13th day of January, 2021.



Jonathan J. Kane
First Justice

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 20H79CV00671

INGRID GUZMAN,)
)
 PLAINTIFF)
)
 V.)
)
 SHERLEY ANN PENA AND)
 JUAN VASQUEZ,)
)
 DEFENDANTS)

ORDER FOR ACCESS

This matter came before the Court on January 12, 2021 for a video-conference hearing on Plaintiff's motion for a second order of access. All parties appeared and represented themselves. They were assisted by a Spanish speaking Court interpreter.

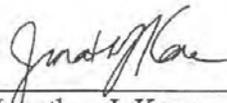
After hearing, for the reasons stated on the record, the motion is ALLOWED as follows:

1. The City of Springfield fire inspector shall enter Defendants' unit at 92 Euclid Avenue, 3rd Floor, Springfield, Massachusetts (the "Premises") at or about 1:30 p.m. on Friday, January 15, 2021. Plaintiff's husband may accompany the fire inspector (and Plaintiff as well if required by the fire inspector). All parties shall wear face masks and otherwise observe COVID-19 safety protocols, including social distancing. Plaintiff represents that her husband will install the necessary smoke and carbon monoxide detectors (and inspect fire extinguishers) during the same visit.

2. The Court requests that the City of Springfield Code Enforcement Department inspect the Premises prior to January 31, 2021 and issue a report regarding any issues that need to be addressed to bring the Premises into compliance with the State Sanitary and State Building Codes, and the time frames for correcting any violations. The City shall attempt to send a Spanish-speaking inspector and shall provide notice to Defendant Pena at [REDACTED] in advance of the inspection.

3. If applicable, the legislative fee set forth in G.L. c. 262, § 4 for injunctions is waived.

SO ORDERED this 13th day of January 2021.



Jonathan J. Kane
First Justice

family and friends about places she might be able to live. She seeks at least sixty days to relocate.

Plaintiff contends that the romantic relationship with Defendant ended more than a year ago (in late 2019) and that Defendant has long known that she needed to move, as evidenced by the written notice to vacate he provided in January 2020. He does not want to be forced to reside with Defendant following their break-up. He also testified that Defendant has been staying elsewhere recently, returning periodically to feed the cat.

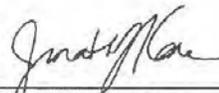
As a licensee whose license to occupy has been terminated and having had nearly a year of advance notice of her need to vacate, Defendant is not entitled to any additional time to move. Given the length of her occupancy at the Premises, however, and further given that she apparently believed that she had tenancy rights and was not required to vacate prior to receiving a court order, the Court shall allow a brief period of time for Defendant to remain in the Premises while she continues to look for replacement housing. Because both parties acknowledge that much of the furniture in the Premises is owned by Defendant, the Court will give Defendant an extended period of time to remove her possessions.

Based on the forgoing, and after balancing the equities, the Court enters the following ORDER:

1. Defendant may remain in the Premises through January 31, 2021, after which date she must vacate. If she fails to vacate by that date, Plaintiff may treat Defendant as a trespasser in accordance with G.L. c. 266, § 120 and have her removed by the Brimfield police or a deputy sheriff. This Order constitutes sufficient notice to Defendant and Plaintiff is not obligated to provide any further notice of the time and date of the vacate order.

2. Defendant shall have until February 28, 2021 to remove the furniture and other belongings she owns from the Premises. After that date, if any of Defendant's belongings remain in the Premises, Plaintiff may seek a Court order with respect to the disposition of the remaining items, with notice of said motion being provided to Defendant.

SO ORDERED this 13th day of January 2021.

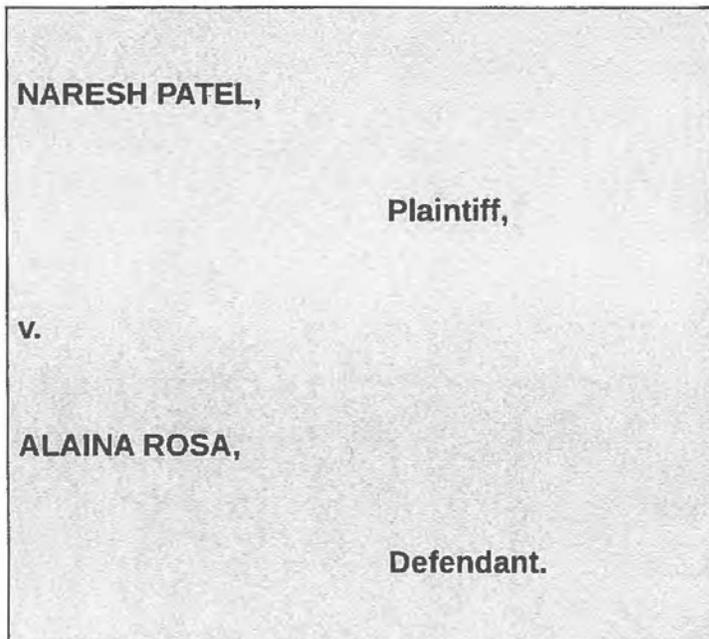


Jonathan J. Kane
First Justice

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
CASE NO. 901



ORDER

This matter came before the court for trial on January 12, 2021, at which the plaintiff landlord appeared through counsel and the defendant tenant appeared *pro se*. For the reasons stated herein, the trial is continued and an order shall enter as follows:

1. The landlord reports that \$19,200 is outstanding in use and occupancy through January, 2021.
2. The tenant is filing an application for RAFT funding this day, January 12, 2021. The Court's Zoom host was planning to move the tenant to a breakout

room with a representative from Way Finders to assist with said RAFT application at the conclusion of the hearing.

3. The tenant was also going to be moved by the host to a breakout room with an attorney from Community Legal Services for an assessment of her case and her situation including accessing any and all other public funds for which the tenant may be eligible and whether the CDC order and declaration are applicable.
4. The tenant reported that she lost her job due to COVID and that her unemployment benefits should be starting up soon with sufficient income to pay her current/ongoing rent, use, and occupancy. Upon the commencement of said benefits, the tenant shall pay her rent going forward.
5. Given the requirements of Chapter 257 of the Acts of 2020, *An Act Providing for Eviction Protections During the COVID-19 Pandemic Emergency*, this matter shall be continued pending the tenant's RAFT application and any other applications for other public funds.
6. In case the connections to Way Finders and Community Legal Aid did not occur in accordance with what is described above, following are the contact information for those two programs:
 - a. Way Finders online at: www.wayfindersma.org/hcec-assessment or by phone at 413-233-1600;
 - b. Community Legal Aid at: 413-781-7814.
7. The federal government has also generated an order that may have the effect of halting physical evictions if the tenant completes a CDC declaration and

provides same to the landlord. The tenant may wish to obtain a copy of a CDC declaration to determine if the *Temporary Halt in Residential Evictions to Prevent Further Spread of COVID-19*, at 85 Fed. Reg. 55,292 (September 4, 2020) applies to her. If so, she should provide a copy of the declaration with her signature to the landlord and to the court.

8. This matter shall be scheduled for hearing on **February 16, 2021 at 10:00 a.m.** The Clerks Office shall provide the parties with instructions on how to appear for said hearing by Zoom. If the tenant has no means of attending by Zoom, she may contact the Clerks Office to make arrangements to utilize the court's Zoom station for this hearing.

So entered this 13th day of January, 2021.



Robert Fields, Associate Justice *Am.*