

Western Division Housing Court
Unofficial Reporter of Decisions

Volume 42

Feb. 6, 2025 — Mar. 4, 2025

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*

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Hon. Michael Doherty, Clerk Magistrate, *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.

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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).

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COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
SUMMARY PROCESS ACTION
NO. 24H79SP004676

MAS PROPERTIES, LLC,

Plaintiffs

VS.

DEE GARDINER,

Defendant

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

This is a summary process action in which Plaintiff MAS Properties, LLC is seeking to recover possession of a residential dwelling from Defendant Dee Gardiner upon termination of a Section 8 subsidized tenancy. The defendant did not file a timely written answer.¹

Based upon all the credible testimony and evidence presented at bench trial conducted on February 5, 2024, and the reasonable inferences drawn therefrom, I make the following findings of fact and rulings of law.

Plaintiff MAS Properties LLC is a limited liability corporation. Mohamed Assif is the sole member of the LLC. The plaintiff has owned the single-family residential property at 243 Robbins

¹ The plaintiff commenced the summary process action on September 18, 2024, and the parties appeared in court for the first-tier event on January 22, 2025. Mediation was unsuccessful, and the clerk scheduled the trial for February 5, 2024. It was not until the morning of the scheduled trial, February 5, 2024, that the defendant filed a motion to file a late answer. The proposed answer included a number of defenses and counterclaims that would have required that the trial be rescheduled to give the plaintiff a fair opportunity to obtain documents and witnesses to respond to these unanticipated defenses/claims. The plaintiff, who is seeking possession based upon the single claim that he has "other good cause" to terminate the tenancy based upon his intention to sell the property, objected to the late filed motion and stated that it would be unfair to delay the commencement of the trial. The defendant did not present a satisfactory reason to explain her delay in seeking to file an answer until the day set for the trial. I note that the defendant was aware of her obligation to file a timely answer. She had filed an answer in the first summary process action in 2023. Given these circumstances, I denied the defendant's motion. However, I notified the defendant that she could present a defense at trial contesting whether the plaintiff had served her with a notice to quit and whether the plaintiff had "other good cause" to terminate the tenancy in accordance with the HUD regulations and contracts governing Section 8 tenancies.

Avenue, in Pittsfield, Massachusetts since January 2021. In April 2021, the plaintiff and defendant Dee Gardiner entered into a Section 8 rent subsidized tenancy. Berkshire Housing is the Section 8 administrator. The defendant's subsidized portion of the approved contract rent is \$39.00.² The defendant is the sole occupant of the dwelling.

The First Eviction Action. I take judicial notice of the docket entries and judicial orders entered in the case of *MAS Properties, LLC v Dee Gardiner* (No. 23H79SP003568) which I shall refer to as the first summary process action.

In the spring of 2023, the plaintiff decided to sell the premises and engaged a real estate agent to market it. The defendant refused to provide the plaintiff's real estate agent with reasonable access to the premises to show to prospective buyers. It was for this reason that on June 30, 2023 the plaintiff served the defendant with a notice to quit for cause (lease violation for failing to provide access) and in August 2023 commenced the first summary process action.

The first summary process action proceeded to trial on November 1, 2023. In an order dated December 19, 2023, the court, Fields, J., ruled that "[i]t is clear from the evidence at trial that the landlord has met its burden of proof that the tenant has not permitted access for inspections or for the real estate agent." However, the judge found that the defendant had a disability, and that the agent's efforts to access the premises "triggered" the defendant's [REDACTED]. For that reason, the court, instead of entering judgment for the plaintiff, afforded the defendant a reasonably accommodation providing her the opportunity to comply with the terms of her tenancy. The accommodation provide that "she work with the parties to work out an arrangement for the landlord to access the subject premises for inspections, repairs and for Real Estate Agent Mary Jane Dunlap to list the property for sale."

The plaintiff filed a number of motions for entry of judgment in 2024 (February 1, February 29, and June 24, 2024) claiming that the defendant had not complied with the terms of the accommodation orders and continued to deny access to the premises. In a series of orders

² The initial full contract rent was \$1,000.00. The plaintiff testified that the current approved full contract rent is \$1,487.00 per month. The defendant denies that Berkshire Housing approved the increase in the full contract rent. She refused to sign a new Section 8 lease at the higher rent. The amount of the approved full contract rent is not relevant to the claim for possession at issue in this case. The plaintiff does not claim that the defendant has failed to pay her share of the full contract rent (which is calculated solely based upon her household income). Further, as a Section 8 tenant the defendant remains subject to the provisions of the HUD Section 8 tenancy termination regulations whether or not she signed the proposed lease.

(February 23, March 29, May 6, 2024) the court, Fields, J., declined the plaintiff's request to enter judgment. Instead, the judge issued modified reasonable accommodation orders.

The plaintiff, apparently believing that the defendant would never comply with the reasonable accommodation orders and that the court remained disinclined to enter a judgment for possession based upon cause (breach of lease), sought to dismiss the first summary process action through a motion that was allowed by the court, Winik, J., on July 17, 2024.

The voluntary dismissal of the first summary process action did not bar the plaintiff from seeking to recover possession of the premises in the future.

The Second Summary Process Action. I find that after the first summary process action was dismissed in July 2024, the plaintiff continued to have a good faith intention to repair and sell the premises. Because of the access difficulties he experienced in 2023 and 2024, the plaintiff decided that he would have to regain possession from the defendant before he could realistically repair and market the premises.

Under the tenancy termination provisions of the Section 8 HUD regulations, 24 CMR § 982.310, a section 8 tenancy may be terminated for "other good cause" which includes "[a] business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit . . .)." These regulatory provisions are incorporated in the Section 8 HAP contract and tenancy addendum, section 8(d)(3)(c).

Relying on the "other good cause" provisions set forth in the Section 8 HUD regulations and HAP contract, the plaintiff prepared a new *30-Day Notice to Quit* addressed to the defendant and dated September 27, 2024. The notice states as grounds for termination that the plaintiff has "*a business or economic reason for termination of the tenancy. My client is going to renovate and/or sell the Premises and wishes the Premises to be vacant before he does so.*" On September 30, 2024 a Berkshire County deputy sheriff served the notice to quit by leaving a copy of it at the defendant's single-family premises and sending a copy of the notice by first class mail addressed to the defendant at the premises. I find that the defendant received the notice to quit. The defendant's Section 8 tenancy was terminated effective October 31, 2024, upon the expiration of 30 days from September 30, 2024.

The plaintiff commenced the second summary process action in November 2024 alleging as grounds for termination, consistent with the notice to quit, that the plaintiff had "*a business or*

economic reason for termination of the tenancy. My client is going to renovate and/or sell the Premises and wishes the Premises to be vacant before he does so."

The defendant has not vacated the premises as of the trial date. And the defendant did not present any credible evidence to support her contention that the plaintiff does not intend in good faith to repair and sell the premises.

I find that the plaintiff has established that it intends in good faith to repair and sell the premises. I further find that this is the sole reason it has terminated the defendant's tenancy and commenced this second summary process action. Therefore, I rule that the plaintiff has established "good cause" for terminating the defendant's tenancy in accordance with the provisions of the Section 8 HUD regulations and HAP contract. Specifically, the plaintiff has proved that it has "[a] business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit . . .)."

Accordingly, the plaintiff has established its claim for possession, and judgment shall enter for the plaintiff for possession.

Unlike the first summary process action, this second summary process action is not based upon "fault" of the defendant. Accordingly, the defendant is entitled to request that the court grant her a stay of execution pursuant to G.L. c. 239, §§ 9 and 10. Since the defendant has a disability (a fact that the plaintiff does not contest), she may ask the court for a stay of up to twelve (12) months. The time period of a stay rests in the sound discretion of the trial court judge. I have balanced the interest of the defendant (she states that she needs 12 months to secure a new Section 8 subsidized home) and the interests of the plaintiff (it has been trying to sell the property and seeking to recover possession since 2023 and has been unable to repair and market the property while the defendant remains in possession). Considering all of the factors, I conclude that the defendant shall be afforded a stay of execution for a period of up to a six (6) month subject to these conditions:

1. The initial stay of execution shall be for a period of three (3) months until May 15, 2025. During this period the defendant must make ongoing reasonable efforts to secure new housing. She must maintain a written log that records each contact she makes with a prospective landlord and real estate agent that includes: the date, the name and contact information for each person contacted, the address of the prospective residence,

whether or not she was offered the opportunity to rent the residence, and the reason she rejected the offer if one was made;

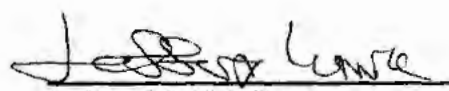
2. The defendant must continue to pay her share of the Section 8 rent each month when due;
3. The defendant must allow the plaintiff (the LLC member accompanied by his contractors) with access to the premises between 9 a.m. and 4 p.m., Monday to Friday, upon seven (7) days advance written notice (via first class mail, e-mail or text message);
4. The defendant must allow the plaintiff's contractors access to the premises between 9 a.m. and 4 p.m., Monday to Friday upon seven (7) days advance written notice (via first class mail, e-mail or text message) to make minor repairs that may be needed to prepare the premises for sale. The notice must state what specific minor repairs will be made;
5. The defendant must allow the plaintiff's real estate agent to show the premises to prospective buyers upon 48-hour advance written notice (via first class mail, e-mail or text message that identifies the name of the real estate agent, the date and time of the showing) between 11 a.m. and 3 p.m., Monday to Friday (with each showing not to exceed 45 minutes). The real estate agent shall not schedule more than one (1) showing per day and not more three (3) showings per week;
6. If the defendant fails to comply with one or more of these conditions the plaintiff may file a motion seeking immediate issuance of execution;
7. The court shall review the initial three-month stay provision at a hearing that will be conducted on May 7, 202⁵ at 9 a.m. If the defendant establishes that she has complied with the conditions of this stay order, the period of the stay shall be extended (subject to continued compliance with these conditions) to August 15, 2024.

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 on its claim for possession of the premises at 243 Robbins Avenue, in Pittsfield, Massachusetts.
2. Execution for possession shall be stayed pursuant to G.L. c. 239, §§ 9 and 10 subject to the above-reference conditions 1 -7.

SO ORDERED this 6th Day of February, 2025.


Jeffrey M. Winik
Associate Justice (Recall Appt.)

with Deanna's Sign
TE

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

NORTHERN HEIGHTS LP,

Plaintiff,

-v.-

DOCKET NO. 23SP02020

JUAN PEREZ, ET AL.,

Defendant.

ORDERS

This matter came before the court on January 31, 2025 for a review hearing pursuant to a December 26, 2024 order of a judge of this court. The plaintiff appeared through its attorney. Defendant Juan Perez appeared and is self-represented. Natalie Vasquez of the Tenancy Preservation Program (TPP) also was present at the hearing, although she reported that it would be another clinician who will be working with Mr. Perez. Defendant Daniel Perez did not appear and has not participated in this case.

This eviction case is based on nonpayment of rent. The plaintiff reported that the defendant made the payments as required by ¶4 of the December 26, 2024 order and that the move-out scheduled for January 9, 2025 was stopped. The arrearage is \$4,908.63 through January 2025. This includes \$269.01 costs. The tenancy is subsidized. The tenant's portion of the monthly rent/use and occupancy is \$726.

Order for Guardian Ad Litem

Based on a concern raised by the plaintiff at the December 20, 2024 hearing, the December 26 order referred the case to the Tenancy Preservation Program (again) and ordered that Mr. Perez undergo a forensic psychological evaluation with the Court Clinic. The Court Clinician conducted such an evaluation on January 21, 2025 and filed a report with the court on

January 30, 2025 (docket #22). This court has reviewed the report. Based on the recommendation of the Court Clinician, and without opposition from either party, the court now orders the appointment of a guardian ad litem for Juan Perez pursuant to G.L. c. 190B §5-106 and Mass. R. Civ. P. 17(b) for the purpose of securing the full and effective administration of justice in this case. The Clerk's Office is asked to select the next available guardian ad litem from the list of qualified individuals who serve in this capacity for the Western Division pursuant to SJC Rule 1:07.

Further Orders

After hearing, it is further ordered:

1. The Clerk's Office is asked to impound the Court Clinician's report (docket #22) forthwith. However, the guardian ad litem and the TPP clinician who will be working with Mr. Perez may have access to the report for the purpose of assisting him in this case.
2. The Clerk's Office is asked to schedule a status conference in this matter forty-five days after the guardian ad litem is named, and to send notice.
3. The guardian ad litem is asked to be present at the status conference and to report to the court on the further recommendations included in the Court Clinician's report, including but not limited to appropriate steps to address any challenges and stressors Mr. Perez experiences in paying his rent and other bills and in complying with the requirements of the Section 8 program as well as steps to assist him to comply with court orders.
4. TPP is asked to work with the guardian ad litem pending further order of the court. Specifically, TPP is asked to assist Mr. Perez to
 - a. Apply for RAFT financial assistance for his rent and his utilities, including but not limited to coordinating a meeting for Mr. Perez with Springfield Partners for Community Action for assistance with the RAFT application, as noted in ¶5 of the judge's December 26 order;
 - b. Determine if Mr. Perez' portion of the rent/use and occupancy as calculated by Wayfinders is correct in light of his income; and

- c. Pay his monthly rent/use and occupancy and the arrearage as outlined in ¶6 below.
5. The TPP clinician who is working with Mr. Perez is asked to be present at the status conference and to report on TPP's work to date with Mr. Perez.
6. Juan Perez will continue to pay \$225 each week pending further order of the court. These payments will be applied first to the current month's rent/use and occupancy each month and then to the balance will be applied to the arrearage. These weekly payments will continue each month pending further order of the court.

February 6, 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
DOCKET NO. 24CV0990

PIONEER LINDEN LLC

PLAINTIFF(S)

v.

JENNIFER L. ROBBLETS

DEFENDANT(S)

ORDER

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

Defendant shall provide access to Plaintiff's agents for the purposes of making repairs on Monday, February 10, 2025 from 9:00 a.m. to 4:00 p.m. The repairs shall be those required in the Board of Health report. No additional notice shall be provided to Defendant for this entry.

Defendant and her adult son shall not be present in the home during these hours and may not otherwise obstruct or interfere with the work

If Defendant fails to comply with the terms of this order, Plaintiff's remedy is to file a complaint for contempt. A finding of contempt may lead to the imposition of sanctions, including but not limited to an order for payment of attorneys' fees and/or an order that Defendant and all other occupants be removed from the premises until the repairs have been completed.

SO ORDERED: 1s/ Jonathan J. Kane DATE: 2/6/25
Jonathan J. Kane, First Justice

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden, ss.

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

JAQUELINE SILVA,

Plaintiff,

-v.-

DOCKET NO. 25CV00024

KYANSARIH DIAS,

Defendant.

ORDER

This matter came before the court on January 31, 2025 for a continued hearing on the plaintiff's request for injunctive relief. The plaintiff appeared, but the defendant did not. Both parties are self-represented. The hearing was continued to give the defendant a further opportunity to show cause why the court should not grant the relief requested by the plaintiff

The plaintiff is the owner of the subject rental premises located at 32 Woodside Terrace in Springfield, Massachusetts. She lives in the third floor apartment there. She rented the second floor apartment to the defendant approximately five months ago at a monthly rent of \$1,800. She served a thirty-day notice to quit on the defendant, but she did not begin an eviction case against her because Ms. Dias moved out of the premises on December 19, 2024. Ms. Silva's security camera recorded the move. However, the defendant left two boxes (one empty and one with shoes) and two single bed frames behind in the apartment (Exh 1).

The plaintiff asks the court for an order allowing her to change the password on the electronic locks to the premises on the grounds that Ms. Dias has surrendered possession of the unit. The plaintiff reports that she complied with the terms of the court's January 21, 2025 order regarding posting of the notice of the January 31 hearing at the premises. She has not heard from the defendant since then.

Order

After hearing and without opposition, the plaintiff's request is **ALLOWED** as follows:

1. The plaintiff will post a copy of this Order on the front door of the premises for three calendar days.
2. After those three days, if the defendant has not contacted the plaintiff to tell her she intends to retrieve anything from the apartment, the plaintiff may change the password on the electronic locks to the premises.

The court waives the \$90 injunctive relief fee in this case.

February 6, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden , ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25CV0095

VEILLETTE

PLAINTIFF(S)

v.
SMITH

DEFENDANT(S)

ORDER

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

1. Based on the verified complaint, witness testimony and evidence presented at the hearing on February 6, 2025, the Court finds that Defendant's living conditions place Defendant and other residents of the property at substantial risk of harm to their health, safety and welfare.
2. Plaintiff has satisfied the legal standard for injunctive relief as set forth in *Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609 (1980). In light of Plaintiff's likelihood of success on the merits, the risk of irreparable harm to Plaintiff outweighs the risk of irreparable harm to Defendant if the injunction is denied.
3. Defendant shall clean, remove the garbage and declutter his rented room forthwith. Defendant must bring the room into sanitary condition such that it is safe for himself and others lawfully present, and so that exterminations can be effective.
4. A referral shall be made to the Tenancy Preservation Program (TPP). If appropriate, TPP may need to make an elder-at-risk report.
5. A further housekeeping inspection shall be done upon 24 hours' advance notice (preferably on Feb. 24 or Feb. 25). This case shall be scheduled for review on February 26, 2025 at 2:00 p.m.

SO ORDERED: 1st Jonathan J. Kane DATE: 2/6/25
Jonathan J. Kane, First Justice

cc: Housing Specialist Department (for TPP referral)

springCOMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-1627

RICHARD GUIMOND,

Plaintiff,

v.

MARCUS EBERHART,

Defendant.

**ORDER FOR
ENTRY OF
JUDGMENT**

After hearing on February 5, 2025, on the landlord's motion for entry of judgment at which the landlord appeared with counsel and the tenant appeared self-represented, the following order shall enter:

1. The parties entered into an Agreement of the Parties (Agreement) on December 3, 2024, in which the tenant was required to pay his monthly rent plus \$200 beginning in December 2024. The tenant was also required to re-apply for RAFT.
2. The parties come before the court for this hearing and the tenant has not paid any rent nor the additional arrearage payments for December 2024 or January and February 2025.

3. Additionally, the tenant's RAFT application timed out and though the tenant states that he believes that it timed out because of the landlord's failure to provide a lease.
4. A representative from Way Finders, Inc. joined the hearing and confirmed that the tenant applied for RAFT but never provided contact information for the landlord.
5. Additionally, the landlord argues that even if the landlord was contacted by the RAFT program, he would not have been able to provide a lease because though he provided a lease to the tenant for his signature pursuant to an earlier August 29, 2024, Agreement, the tenant failed to sign it and return it to the landlord.
6. Based on the foregoing, the motion is allowed and judgment shall enter for the landlord for possession plus \$4,000 and no court costs.
7. An execution may issue upon a timely filing and service of a Rule 13 application.

So entered this 7 day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

springCOMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-1950

NOLAVA, LLC,

Plaintiff,

v.

TAMARA MORALES,

Defendant.

ORDER

After hearing on February 5, 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 tenant has failed to meet the payment obligations agreed to in the January 8, 2025, Agreement of the Parties, paying only \$700 on January 17, 2025, instead of \$400 on January 10 and \$400 on January 17, 2025, and \$400 on January 24, 2025, and \$400 on January 31, 2025.

2. The tenant explained that has been out of work due to an eye injury and that she has a money order today in the amount of \$292.
3. Judgment shall enter for the landlord for possession plus \$7,483 (and no costs).
4. There shall be a stay on the issuance of an execution so long as the tenant pays \$400 each week and uses her tax returns to pay down the debt and brings the balance to \$0 (at which time the matter will be dismissed). Such stay shall toll the time addressed in G.L. c.235, s.23.

So entered this 7th day of February, 2025.

Robert Fields, Associate Justice

Cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-4684**

MARSHA QIAN,

Plaintiff,

v.

MARIA FARDONK,

Defendant.

ORDER

This matter came before the court for trial on February 6, 2025, at which each party appeared self-represented. After hearing the following order for judgment shall enter:

1. The parties stipulated to the prima facie elements of the landlord's claim for unpaid rent and for possession.
2. The tenant did not assert any defenses or counterclaims.
3. Judgment shall enter for the landlord for possession plus \$8,750 plus court costs.

4. An execution may issue upon a timely filing and service of a Rule 13 Application.

So entered this 7^m day of February, 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-4825

APPLETON CORPORATION,

Plaintiff

v.

EVELYN DELGADO,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR JUDGMENT

This summary process case came before the Court for a bench trial on February 10, 2025. Plaintiff appeared through counsel; Defendant appeared self-represented.

The parties stipulated to Plaintiff's prima facie case for possession but did not agree upon the outstanding balance. Plaintiff alleges \$10,732.00 is owed in rental arrears. Although she did not file an answer, Defendant claims that she owes less than the amount claimed by Plaintiff because she is in the process of appealing the termination of her rental voucher.¹ Defendant produced no evidence of her appeal and concedes that, even if the appeal is successful, she will owe a substantial amount of rent given that she has not made any payment (due to personal circumstances) since her last rental payment in June 2024.

¹ Defendant represented that she participates in the Massachusetts Rental Voucher Program. Her voucher is administered by the Springfield Housing Authority. Plaintiff has no role in the termination or reinstatement of the voucher.

Based on all the credible evidence offered at trial and the reasonable inferences drawn therefrom, and in light of the governing law, the following order shall enter:

1. Judgment shall enter for Plaintiff for possession and \$10,732.00 in damages, plus court costs.²
2. Execution (eviction order) will issue by application after expiration of the 10-day appeal period.

SO ORDERED.

February 10, 2025

/s/ Jonathan J. Kane

Jonathan J. Kane, First Justice

² Defendant is invited to file a motion to amend the judgment if her voucher is reinstated retroactively.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4408

SARAWOOD LLC,

Plaintiff

v.

KENNETH J. BRAICA,

Defendant

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

This summary process case came before the Court on January 10, 2025 for a bench trial. Plaintiff appeared through counsel. Defendant appeared self-represented.¹ Plaintiff seeks to recover possession of residential premises located at 1 Loomis Avenue, Room 18, Holyoke, Massachusetts (the “Premises”) from Defendant. The Premises are part of a facility known as Sarawood Assisted Living. Approximately 20 residents live at the facility currently.

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:

¹ Mr. Braica made an oral request for a continuance at the outset of trial, claiming that legal services would assist him if he had more time. He offered nothing to support this claim. Plaintiff, who was ready to proceed with a witness, objected to a continuance. The Court therefore denied the motion.

Defendant moved into the Premises in February 2024. He is subject to a Residency Agreement that requires him to conform to certain rules and regulations. His monthly rent is \$927.00. He has failed to pay rent for the last three months.

Beginning in May 2024, Defendant began to have altercations with other residents and management. Plaintiff's executive director observed Defendant verbally abusing residents on several occasions, and she received numerous complaints from other occupants of the assisted living facility. The Executive Office of Assisted Living assigned an ombudsperson to work with the parties, but the ombudsperson withdrew from the matter after her interactions with Defendant. The local elder protective services agency declined to open a case with Defendant based on past experiences with him.

Defendant filed a letter which the Court accepts as his answer. At trial, he did not deny his outbursts toward other residents. He was defiant in stating that those whom he insulted or yelled at deserved it, and that his approach to life is "not to back down from anyone." He made demeaning comments about the women in the facility and claimed to be ostracized because of his religious beliefs, although he admitted that he sometimes forgets his religious principles when he gets angry.

Plaintiff demonstrated by a preponderance of the evidence that Defendant repeatedly and substantially violated terms of the Residency Agreement. Despite stating in his answer that he was remorseful, his behavior at trial indicated otherwise. The other residents in this assisted living facility should not be required to tolerate Defendant's belligerence. Accordingly, based on the foregoing, and in light of governing law, the following order shall enter:

1. Judgment shall enter in favor of Plaintiff for possession and damages in the amount of \$2,781.00, plus court costs.
2. Execution shall issue by written application pursuant to Uniform Summary Process Rule 13.

SO ORDERED.

February 10, 2025

/s/ Jonathan J. Kane
Jonathan J. Kane, First Justice

cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

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

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Docket No. 24-SP-00826**

Valley Opportunity Council *
PLAINTIFF *
*
v. *
*
Nikia Butt *
DEFENDANT *

ORDER


After hearing on the plaintiff's **Motion For Entry of Judgment and Issuance of Execution for Possession and Money Damages**, the Court rules as follows: The plaintiff, Valley Opportunity Council, requests that judgment enter for the plaintiff for possession and damages for unpaid use and occupancy in the amount of **\$7,306.00**, plus costs of **\$237.01** and that execution issue in due course. The plaintiff, through counsel, represented that the defendant, Nikia Butt, has not had a zero balance in her rental account since September 2022, that her monthly rent is **\$801.00**, and that the maximum amount of RAFT money she is eligible for is **\$2,194.00**. The Court credits these representations.

The defendant testified that she has been unemployed since August 2024, that she has had mental health issues during that time and that she has a pending RAFT application. She testified that she can make a payment in the amount of **\$1,300.00** at the end of February 2025. The Court credits this testimony.

Under all of the circumstances of this case, the Court finds that there is not sufficient evidence before the Court to allow the plaintiff's Motion.

For the above-stated reasons, the Court rules as follows:

1. The plaintiff's **Motion For Entry of Judgment and Issuance of Execution for Possession and Money Damages** is **DENIED** without prejudice.
2. The defendant shall pay the plaintiff **\$1,300.00** on February 28, 2025.
3. This action shall be set down for review of the defendant's compliance with this Order on **March 4, 2025 at 9:00 a.m.**
4. In the event that the defendant has failed to comply with the terms of this Order, the plaintiff shall have the right to orally renew its **Motion For Entry of Judgment and Issuance of Execution for Possession and Money Damages** at the review hearing.


ANNE KENNEY CHAPLIN
ASSOCIATE JUSTICE

Date: February 10, 2025

cc: Katharine Higgins-Shea, Esq.
Nikia Butt

springCOMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-3616

MARIANELL CASTILLO,

Plaintiff,

v.

KELLY L. SULLIVAN,

Defendant.

ORDER

This matter came before the court on February 10, 2025, for hearing to determine if the tenant ever received the Notice to Quit dated August 1, 2024. After hearing, the following order shall enter:

1. **Background:** This summary process action was commenced by the landlord on September 10, 2024, when she filed a summons and complaint accompanied by a Notice to Quit for nonpayment of rent dated August 1, 2024 (hereinafter, "Notice to Quit"). On February 3, 2025, by order of Judge Carvajal, the tenant's Answer was

deemed file and served and asserted therein that the tenant never received the Notice to Quit.

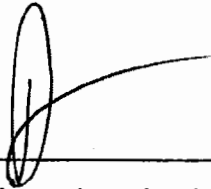
2. **Discussion:** The law is settled that the burden is on the landlord to show that the tenant received the Notice to Quit. *Connors v. Wick*, 317 Mass. 628, 631 (1945). It is receipt not service that determines whether the tenancy was properly terminated. The landlord testified that she mailed the Notice to Quit and provided a copy of the United States Postal Service "tracking" document that states that the item was delivered to the tenant's mailbox on August 5, 2024. Such evidence may be considered to be presumptive evidence that the notice was sent to the tenant. However, the mere delivery to the tenant's home is not equivalent to the tenant having notice. *Ryan v. Sylvester*, 358 Mass. 18, (1970).

3. The tenant testified credibly that she has experienced missing mail from her mailbox. She and her witness, Debra Demeris (who resides next door to the tenant), credibly testified that they saw the tenant's downstairs neighbor on the tenant's porch going through and removing mail from the tenant's mailbox. Also, the tenant testified credibly that she believes the downstairs neighbor has a grudge against the tenant for not allowing her to use her washing machine in the basement.

4. The court also found the landlord credible in her testimony about her efforts to serve the tenant with the Notice to Quit but she was unable to provide any evidence that controverted the tenant's testimony that she never received the notice. Based on the evidence admitted at this hearing, the court concludes that it is likely that the Notice to Quit was delivered to the tenant's mailbox was removed from there and that the tenant never received it.

4. Conclusion and Order: Based on the foregoing, I find that the landlord has not met its burden of proof that the tenant received the Notice to Quit and this matter is demised, *without prejudice*.

So entered this 11th day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

**springCOMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-5420**

**HOMESAVERS COUNCIL OF GREENFIELD
GARDENS, INC.,**

Plaintiff,

v.

DENISE REYES RODRIGUZ,

Defendant.

ORDER

After hearing on February 7, 2025, at which the landlord appeared through counsel and the tenant appeared self-represented, the following order shall enter:

1. The parties were present for a Tier 1 event. The case is based on non-payment.
2. The Tier 1 event evolved into a mediation and the parties came before the judge to review an Agreement.
3. The essential elements of the agreement is that judgment is to enter for the landlord for possession and for the entirety of the monies owed to it by the tenant and a February 28, 2025 vacate date.

4. The tenant has been granted a Section 8 mobile voucher and anticipates moving into a new apartment on March 1, 2025.
5. The tenant does not yet have a lease (for the new unit) and her RAFT application for moving costs (as perhaps for first and last months' rent and/or security deposit) has not yet been approved.
6. The Court is concerned that this agreement locks the parties into a schedule that may not be achievable should there be any delay in either the tenant getting approved by the housing authority for her new housing unit, obtaining a key, or being approved for RAFT funds for moving.
7. Further, the Court does not see any real prejudice in choosing to not approve of this Agreement today but to schedule the matter for a date after the anticipated move out.
8. Accordingly, this matter is hereby scheduled for what is anticipated as a review of an agreement and, if not, for trial on **March 21, 2025, at 9:00 a.m.** As stated on the record, if the tenant vacates and relinquishes possession prior to the March 21, 2025, hearing and chooses to not appear, a judgment may enter against her for \$15,711.92 plus court costs.

So entered this 11th day of February, 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-3852

VONDA A. LEWIS AND RONALD J. BRACE, JR.,

Plaintiffs

v.

NATAHSA A. BRACE,

Defendant

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

This no-fault summary process case came before the Court for a bench trial on December 17, 2024. Plaintiff Vonda Lewis appeared with counsel. Plaintiff Ronald Brace, Jr. did not appear. Defendant appeared self-represented. The subject residential property is a single-family house located at 65 Bellevue Ave., Springfield, Massachusetts (the "Premises").

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

1. The Premises were owned by Ronald Jeffrey Brace, III prior to his death. Plaintiffs are the decedent's mother and father. Defendant is the decedent's sister.
2. Vonda Lewis has been appointed by the Probate and Family Court as the Special Personal Representative of the decedent's estate for purposes of selling the Premises.

3. By stipulation dated April 1, 2024 and filed in Probate and Family Court, Ronald Brace, Jr. agreed to remove all personal property from the Premises. Pursuant to the stipulation, Plaintiffs agreed to list the Premises for sale and evict any occupants.
4. On April 24, 2024, Vonda Lewis served Defendant with a no fault notice to quit effective at the end of May 2024. Defendant did not vacate.
5. On September 24, 2024, Plaintiffs filed the instant summary process action.
6. On the original trial date of December 10, 2024, Defendant was given leave to file a late answer. In the answer, she alleges retaliation, discrimination based on disability and breach of quiet enjoyment.

With respect to Defendant's claims and defenses, Defendant failed to prove that the eviction process started in retaliation or reprisal of her protected activities. Defendant offered no credible testimony or documentary evidence that she reported conditions of disrepair to the City of Springfield or to any public agency prior to being served with the notice to quit. Further, she failed to show with credible evidence that she made any complaints about the absence of heat or other significant housing conditions. Particularly given the terms of the stipulation filed with Probate and Family Court, this Court finds that Vonda Lewis had sufficient independent justification for seeking to recover possession of the home and would have in fact taken such action, in the same manner and at the same time the action was taken, regardless of any actions taken by Defendant.

Defendant's other counterclaims fail for lack of evidence. She failed to show by a preponderance of the evidence that Vonda Lewis entered her home without permission or notice or otherwise caused a substantial interference with quiet enjoyment in violation of G.L. c. 186, § 14. Defendant failed to argue or address the claim of discrimination asserted in her answer, and the Court deems that claim to be waived.

Defendant testified that she intends to vacate the Premises. She testified that she expects to have a place to move in approximately three months. Nearly two months have passed since the date of trial, and additional time will elapse between the date the execution issues and the levy. Therefore, given the foregoing, and in light of the governing law, the following order shall enter:

1. Judgment for possession, plus court costs, shall enter for Plaintiffs.
2. The Court finds in favor of Plaintiffs on Defendant's counterclaims.
3. Execution shall issue upon written application pursuant to Uniform Summary Process Rule 13.

SO ORDERED.

DATE: February 11, 2025

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

cc: Court Reporter

springCOMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 23-SP-3494

MASS WILLOWS, LP,

Plaintiff,

v.

MOISES MARSHALL,

Defendant.

ORDER

After hearing on February 5, 2025, on the landlord's motion to lift the 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. Given the substantial payments having been made by the tenant since the last Agreement of the Parties and given the tenant's circumstances that he shared on the record, the payment of \$1,861 paid today, and the stringent repayment terms of this order, the motion is denied.

2. The landlord asserts that \$8,827 is outstanding through February 2025 (after crediting the \$1851 paid today).
3. The tenant shall pay an additional \$1,851 by no later than February 14, 2025.
4. The tenant shall also pay down the arrearage from his 2024 tax returns within five business days of his receipt of said returns.
5. The tenant shall also, resuming in March 2025, pay his rent timely and an additional \$150 by the 3rd week of each month until the balance is \$0.

So entered this 11th day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

RP

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-CV-0419

<p>INDIA MCMULLEN, Plaintiff</p> <p>v.</p> <p>DALE A. WHITE and HUON D. WHITE, Defendants</p>

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

This civil action for the assessment of damages pursuant to Mass. R. Civ. P. 55(b)(2) came before the court on December 5, 2024. Plaintiff (tenant) appeared with counsel. Defendant Dale A. White appeared self-represented. Defendant Huon D. White did not appear. Defendants shall be collectively referred to herein as the "landlord."¹ Plaintiff was formerly a resident of 100 Massachusetts Ave., 1st Floor, Springfield, Massachusetts (the "Premises").

A. Findings of Fact

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

1. The tenant moved into the Premises in or about July 2010. The Premises are part of a two-family home. The tenant lived on the first floor until vacating in 2022.

¹ Although not named as a defendant, Dale A. White, Jr. acted as a property manager prior to approximately 2020 as an agent of the owners, and the term "landlord" shall also apply to his actions for purposes of this assessment of damages hearing.

2. In late 2018, the tenant began seeing the effects of excessive moisture in the bathroom, with growth of “mushrooms” on the ceiling. It was the only bathroom in the unit. The landlord reimbursed the tenant for the loss of certain personal items in the bathroom, such as bathroom accessories and curtains. The landlord opened the ceiling and covered it with plastic for three days before making repairs.
3. The tenant claims she slipped on the exterior stairs and bruised her arm in late summer of 2018. She said that she missed two days of work. She offered no credible evidence of the cause of the fall and did not establish any causal connection between the alleged fall and lost days of work. She concedes that the landlord addressed the stairs the next day and offered no credible testimony as to how the condition of the stairs affected her ability to use the Premises.
4. The tenant suffered intermittent leaks from the unit above hers. In the period between August to October of 2021, water leaked into the Premises and caused her living room furniture to get wet.
5. In October 2022, a pipe burst in the second-floor unit which caused water to enter the tenant’s bedroom. It caused significant damage. Portions of the ceiling fell, the bedroom closet was flooded, and water damaged her mattress and personal properties. The tenant estimated that she suffered more than \$5,000.00 in damages, although she offered no evidence of the value of her loss. The tenant had renters’ insurance, and she made a claim for damage to her personal property.

6. As a result of the water intrusion in October 2022, the landlord temporarily shut off the electricity to the Premises. The tenant left the Premises and stayed in a hotel. The landlord paid for one night, and thereafter, the tenant's renters' insurance paid a portion of the hotel bills. The tenant estimates that she paid \$100.00 to \$200.00 per week out of pocket to stay in the hotel for a few weeks. She offered no evidence whatsoever regarding the hotel stay or cost.
7. The tenant never returned to live in the Premises after leaving in October 2022. She removed the remainder of her belongings and moved to an apartment in Chicopee. She claims that her rent increased to \$1,150.00 per month in the new apartment, but she offered no evidence to support her testimony, nor did she provide evidence to show the similarities or differences between the Premises and the new unit for which she paid a higher rent.
8. The City of Springfield Code Enforcement Department inspected the Premises at least three times, once in 2021 and twice in 2022. The reports primarily cite code violations related to water damage.²
9. The tenant asserts that prior counsel sent a demand letter to the landlord pursuant to G.L. c. 93A. The only letter offered into evidence appears to be a draft, as it is undated, contains handwritten edits and is not signed by counsel. Although the landlord recalls receiving some type

² Neither party offered a witness from Code Enforcement and the reports were not certified. Therefore, the Court accepted the inspection reports only for purposes of establishing notice and not for the truth of the matters set forth therein.

of demand letter, the evidence does not support a finding that the tenant sent a proper c. 93A demand letter to the landlord.

B. Conclusions of Law

Perhaps due to being tired from finishing a twelve-hour shift prior to coming to court, the tenant's testimony in this matter was unclear and inconsistent. She repeatedly confused the Court by offering conflicting dates when certain events occurred and being vague about many things, including the damages she claims to have suffered. The Court discerned that she suffered excessive moisture in her bathroom in 2018 or 2019 and that it caused fungus to grow on surfaces, but the evidence was insufficient to determine when this issue arose, when the landlord was given notice and when the problem was repaired. The only clear and credible evidence is that the landlord began to make repairs and left her bathroom ceiling open, covered only by clear plastic, for three days. The Court concludes that the landlord is liable for breach of the warranty of habitability related to the ceiling repair and finds that the open ceiling diminished the fair rental value of the Premises by 40% for three days. The value of the rent abatement is \$65.00. The credible evidence does not support a finding that the landlord violated the Attorney General's regulations (940 Code Mass. Regs. 3.17) or that the landlord's conduct was unfair and deceptive in violation of G.L. c. 93A.

The evidence shows that the tenant suffered with numerous water leaks into the Premises during her tenancy. The most substantial was the burst pipe in 2022 that resulted in significant damage to the Premises, and which caused her to move out of

the Premises. The intrusion of water into the Premises constitutes interference with the tenant's quiet enjoyment of the Premises and a violation of G.L. c. 186, § 14.

The tenant claims that she suffered thousands of dollars of actual damages because of the flooding but offered no credible evidence as to the items that were damages, their condition or their value. She speculated that the damages were in the "thousands" of dollars. The tenant conceded that she had renters' insurance, and that the insurance policy covered some of her lost property (in addition to partially covering the cost of alternative housing). Without more, the Court is without any basis to consider an award of actual damages.³ The tenant is, however, entitled to statutory damages under G.L. c. 186, § 14 in the amount of three months' rent, which amounts to \$1,950.00, plus reasonable attorneys' fees and costs.

The evidence does not support an award of damages to the tenant under any other theory of law.⁴ The landlord did not make a claim for unpaid rent. Therefore, in light of the foregoing and considering the governing law, the following order shall enter:

1. Judgment shall enter for Plaintiff in the amount of \$2,015.00.
2. Plaintiff shall have twenty (20) days from the date judgment enters to file an attorneys' fee petition with supporting documentation.

Defendants shall then have fifteen (15) days from receipt of the petition to file any opposition, after which time the Court will award attorneys'

³ To the extent the tenant seeks to recover the difference between the monthly rent for the Premises and the monthly rent for her replacement apartment, the Court declines award such damages based on the lack of evidence.

⁴ The tenant's claim for constructive eviction is duplicative of the quiet enjoyment claim and therefore the tenant is not entitled to a separate award of statutory damages.

fees without further hearing.

SO ORDERED.

February 11, 2025

By: *Jonathan J. Kane*
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-1828

MAGDA RILEY, Plaintiff, v. ANABEL GARCIA, Defendant

RULING ON PETITION FOR
ATTORNEYS' FEES AND COSTS

Defendant petitions this Court for an award of reasonable attorneys' fees and costs pursuant to the Court's Findings of Fact, Rulings of Law and Order for Entry of Judgment entered on November 26, 2024. The petition asks for statutory attorneys' fees in the amount of \$21,050.00 and costs of \$1,106.46. Plaintiff filed an opposition arguing that the amount sought is excessive and unreasonable.

Using the lodestar method, the Court has considered "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 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).

The petition in this case was submitted by James Mooney of Community Legal Aid on behalf of David DeBartolo, the lawyer who handled the case. Attorney DeBartolo is no longer employed at Community Legal Aid. I find the request for an hourly rate of \$250.00 for Attorney DeBartolo to be reasonable given his level of experience, expertise, skill and reputation.

Considering the nature of the case and the issues presented, the time and labor required, the amount of the damages involved, and the result obtained, and after accounting for unsuccessful claims, I find that Defendant is reasonably entitled to compensation for 35 hours of billable time. The bulk of the damages awarded in this case involved reimbursement to the tenant for utilities and repairs that were the landlord's responsibility. Defendant did not prevail on the claims of promissory estoppel, unjust enrichment, breach of quiet enjoyment, and only recovered a minimal amount for breach of warranty.

Accordingly, I award Defendant a reasonable attorneys' fee of \$8,750. I find the requested costs of \$1,106.46 to be reasonable.

Based on the foregoing, the petition for attorneys' fees and costs is allowed in the amount of \$9,856.46.¹

SO ORDERED.

DATE: February 11, 2025


Jonathan Kane, First Justice

cc: Court Reporter

¹ The award of attorneys' fees is without interest. See *Patry v. Liberty Mobilehome Sales, Inc.* 394 Mass. 270, 272 (1985).

springCOMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-2898

STARLIGHT PROPERTY MANAGEMENT,

Plaintiff,

v.


LEONAR NIEVES,

Defendant.

ORDER

After hearing on February 5, 2025, on the tenant's motion to stop the levy on the execution at which the landlord appeared with counsel and the tenant appeared self-represented, the following order shall enter:

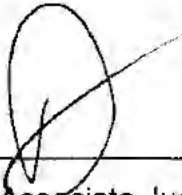
1. For the reasons stated on the record, the motion is allowed and the physical eviction currently scheduled for February 12, 2025, shall be cancelled by the landlord to afford the tenant another chance of paying down the balance to \$0 and avoiding eviction.

2. The landlord asserts that the outstanding balance in use and occupancy through February 2025 is \$5,823 (plus court costs).
3. Because the tenant is making payments of \$312 per week (which is a good faith effort to keep the debt lower) and based on the possibility that if RAFT funds are available same may be able to cover all the outstanding monies owed, the tenant shall be given further opportunity to pay the outstanding arrearage plus paying the costs associated with the cancellation of the physical eviction.¹
4. A representative from Way Finders, Inc. joined the hearing and confirmed that there is no RAFT application pending at this time and the tenant shall immediately submit a RAFT application. The landlord's email address (which should be provide by the tenant when he applies for RAFT) is

5. The tenant is urged to seek assistance from Springfield Partners located at 721 State Street in Springfield (Tel: 413-263-6500) for help with his RAFT application.
6. The tenant shall pay \$312 on February 14 and 28, 2025, and then \$512 on March 14 and 28, 2025.
7. If the tenant fails to make the bi-weekly payment of \$312 as noted above and/or is denied RAFT funds, the landlord may bring a motion for a lifting of the stay on the use of the execution.

¹ The landlord shall provide an invoice(s) for the costs incurred by scheduling and then cancelling the physical eviction to both the tenant and to RAFT.

8. It is anticipated that by April 1, 2025, the tenant's work hours shall be restored and he will be able to pay his full rent.
9. If there is still an outstanding balance after a RAFT payment, the parties shall appear in court to make an agreement for a remaining payment plan.
10. The stay terms of this order shall toll the time frames discussed in G.L. c.235, s. 23.
11. Lastly, the landlord shall immediately provide the tenant with a key for his mailbox.

So entered this 11 day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

springCOMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-CV-983

TOWN OF SOUTHAMPTON,

Plaintiff,

v.

CARRIE A. MALO, et al.,

Defendants.

ORDER

After a review hearing on February 10, 2025, at which the plaintiff town appeared through counsel and the defendants Gary and Carrie Malo appeared self-represented, the following order shall enter:

1. The defendant property owner Carrie A. Malo agrees that she will be responsible for the costs incurred by the plaintiff town totaling \$9,900 for boarding and securing the subject premises.
2. Ms. Malo and the Town agree that she may pay that amount in 18 monthly installments.

3. The Town shall post the subject property with signs that instruct anyone wishing to access the premises for repairs that they must coordinate access through the Town of Southampton with contract information.
4. The Town indicated to the parties and the court during the hearing that it anticipates their next move is to move the court for appointment of a Receiver and shall file and serve a motion for same.

So entered this 11th day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

springCOMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 22-SP-1521

U.S. BANK, N.A.,

Plaintiff,

v.

MARIAELENA GARCIA,

Defendant.

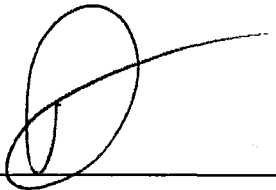
ORDER

After hearing on February 10, 2025, on the defendant's motion for a stay on the plaintiff's use of the execution for possession, at which the plaintiff appeared through counsel and the defendant appeared self-represented, the following order shall enter:

1. **Discussion:** The defendant reports to the court that she fully appreciates that the Appeals Court has ruled against her appeal and that the bank now has the execution which is allowed to schedule a physical eviction as soon as it can make arrangements to do so.
2. The defendant now comes before the court and is seeking a stay on said use of the execution until May 15, 2025, when she plans to relocate and bring all of her belongings with her.

3. The defendant explained to the court during the hearing that has medical issues and also that she has made plans for assistance in readying the premises for a mid-May moveout.
4. The plaintiff bank is opposing the any stay due to the length of time it has been since the foreclosure and the trial.
5. The defendant asserts that she has been paying her monthly use and occupancy and that she will continue to do so until she vacates.
6. **Order:** The defendant's request is allowed in part. This matter shall be scheduled for further hearing on the defendant's motion for a stay on the use of the execution on **March 17, 2025, at 9:00 a.m.**
7. At that time, the defendant shall provide documentation of her having secured alternate housing (e.g. a signed lease), affidavits from those she has lined up to assist her in preparing the premises for a move-out during Easter, and a contract for a moving truck and may be heard on her request for a further stay on the use of the execution.
8. The defendant shall also continue to pay her use and occupancy and use of the execution is stayed through to the next court hearing noted above.

So entered this 11th day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden , ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. **24CV0316**

VC REAL ESTATE, INC.

PLAINTIFF(S)

v.

JORDAN DUKES

DEFENDANT(S)

ORDER

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

The case was initially brought by the landlord for lease violations. As a resolution of this case, by agreement dated May 2, 2024, without an admission of liability, Defendant agreed to vacate by May 2, 2025 and to pay \$500.00 per month in the meantime. This agreement has not been amended or superseded and remains the law of the case. The terms of this agreement, including the move-out date, may be enforced in this case.

The issue of unpaid rent shall no longer be part of this case. RAFT paid \$7,000.00 in January 2025. The parties do not agree on the balance owed. To the extent that the landlord seeks to recover possession for failure to pay rent, it may bring a separate summary process case. This case was brought regarding behavioral issues and future hearings in this case shall be limited to behavioral issues.

In light of the foregoing, and in order to manage the docket, the following order shall enter:

1. The judgment entered in this case will be vacated.
2. The terms of the May 2, 2024 agreement of the parties remain in effect. To the extent Plaintiff seeks to enforce the non-monetary terms of this agreement, it shall proceed as set forth in the agreement. To the extent Plaintiff seeks to collect unpaid rent or use and occupancy at the rate of \$500.00 as set forth in the agreement, it shall do so in a separate summary process case.
2. The parties shall meet with an Assistant Clerk Magistrate to consolidate the civil cases filed by Defendant against Plaintiff and a neighboring tenant into this case. The clerk's office will schedule an evidentiary hearing to adjudicate the landlord's non-monetary claims against Mr. Dukes and Mr. Dukes' claims against the landlord and the other tenant.

SO ORDERED:

1st Jonathan J. Kane

Jonathan J. Kane, First Justice

DATE:

2/11/25

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-5137

BRUCE CHANDLER,

Plaintiff,

v.

JERRY CALIXTE,

Defendant.

ORDER

After hearing on February 11, 2025, at which the landlord appeared with counsel and the tenant appeared self-represented, the following order shall enter:

1. This hearing was to determine if the notice to quit was insufficient to terminate the tenancy as argued by the tenant.
2. Because there remains a question of fact as to whether November 30, 2024, was a "rent day" for purposes of terminating the tenancy for no-fault, this matter shall be decided at trial.

So entered this 12th day of February, 2025.


Robert Fields, Associate Justice

Cc: Court Reporter

springCOMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-sp-3931

THANH LUONG,

Plaintiff,

v.

WALDEMAR ROMAN,

Defendant.

ORDER OF
DISMISSAL

After hearing on February 11, 2025, to determine if Mr. Eric Finch is a *bona fide* tenant of the plaintiff landlord, at which the landlord and the named tenant Waldemar Roman and Eric Finch appeared, the following order shall enter:

1. The Court finds that Eric Finch is a tenant of the landlord and that the landlord's failure to name him in this summary process action shall result in the dismissal of this action pursuant to Mass. R. Civ. P. 19(a).

So entered this 12th day of February, 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-2166

_____)
CHICOPEE HOUSING AUTHORITY,)
Plaintiff,)
)
v.)
)
HECTOR CRUZ,)
Defendant)
_____)

This summary process case came before the Court on February 13, 2025 for hearing on extension of an equitable stay. Both parties were represented by counsel. Judgment entered on November 22, 2024 after trial. Although there is no statutory stay available in a for-cause case such as this, the Court granted an equitable stay for the reasons set forth in its findings and order entered on November 21, 2025.

After weighing the equities, the Court enters the following order:

1. Defendant may apply for the execution in writing on or after March 1, 2025.
2. Upon receipt of the execution, it may arrange for service of a 48-hour notice and proceed with the levy regardless of whether Defendant has secured replacement housing.
3. The behavioral conditions set forth in the previous court order shall remain in effect for the duration of Defendant’s occupancy.

SO ORDERED.
DATE: February 13, 2025

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

cc: Court Reporter

CR

springCOMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-CV-947

JENNIFER LARACUENTE,

Plaintiff,

v.

CHAMPER INVESTMENT GROUP, LLC,

Defendant.

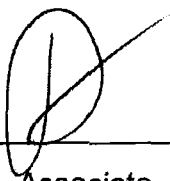
ORDER

After hearings on February 6, 12, and 13, 2025, at which the plaintiff tenant appeared self-represented and the defendant landlord appeared through counsel, the following order shall enter:

1. After hearing on February 6, 2025, the court ordered the landlord to provide hotel accommodations for the tenant and her household. Said hotel accommodations were to have cooking facilities and if they did not have such facilities, the landlord was responsible to provide a daily food stipend of \$125.
2. At the February 12, 2025, hearing the court was informed by the parties that the hotel accommodations did not have cooking facilities and no food stipend was paid.

3. After hearing on February 12, 2025, the court ordered the landlord to provide the tenant and her household with hotel accommodations with cooking facilities beginning that night and continuing through February 19, 2025.
4. This matter was again before this court on February 13, 2025, on the tenant's emergency motion due to the failure of the landlord to provide hotel accommodations.
5. At hearing on February 13, 2025, the landlord's counsel admitted that no hotel accommodations were provided and informed the court that the landlord is insolvent and unable to pay for any hotel accommodations.
6. At each hearing described above, the landlord was also ordered and continues to be ordered to repair each of the conditions cited by the City of Springfield's Code Enforcement.
7. The tenant was informed that she may file a complaint for contempt.
8. This matter shall be referred to the City of Springfield Code Enforcement, Housing Division vis-à-vis the City's Law Department.
9. This matter shall be scheduled for a status hearing and any properly marked matters on February 18, 2025, at 9:00 a.m.

So entered this 13th day of February, 2025.



Robert Fields, Associate Justice

Cc: Jenni Pothier, Chief Housing Specialist for referral to City Law Dept.
Court Reporter

springCOMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-2628

MASON SQUARE APARTMENTS, LP,

Plaintiff,

v.

LAUREN A. CHAUSSE,

Defendant.

ORDER

After hearing on February 4, 2025, on the landlord's motion for entry of an amended judgment at which the landlord appeared through counsel and the tenant appeared self-represented, the following order shall enter:

1. **Procedural Background:** The landlord commenced this non-payment of rent eviction action against the tenant in July 2024. The tenant defaulted the Tier 1 event in August 2024 and a default judgment entered against her for possession and outstanding rent and costs. The tenant filed a motion to stop a physical eviction, and the parties reached an Agreement on December 6, 2024, which cancelled the levy on the execution. That Agreement contains, among other things, terms regarding ongoing payment of use and occupancy. On January 17, 2025, the landlord filed a motion for entry of judgment due to

alleged failures of the tenant to meet her obligations to pay use and occupancy payments in December 2024 and January 2025.

2. **Discussion:** At the February 4, 2025, hearing, the landlord reported its receipt of RAFT funds totaling \$4,054 and that that the outstanding amount of use and occupancy is \$5,990 (through February 2025) plus court costs of \$238.30 (and that the cancellation costs from the cancelled move-out were paid). The tenant's defense to the motion is that her obligation to pay use and occupancy should be off-set due to the conditions she has been forced to endure at the premises. More specifically, these are allegations of both conditions of disrepair and repeated breaches of her covenant of quiet enjoyment by her neighbor about who she alleges she has complained to the landlord and it has continued unabated.
3. Thus, the procedural question posed is whether the tenant is barred from raising such issues as a defense to entry of judgment where there has not been an Answer filed and there is no express waiver of such claims in the Agreement.
4. The Court finds it noteworthy, here, that the tenant did raise these issues when she filed her motion to stop the levy on the execution on December 6, 2024. Therein she wrote:

I had a previous court date sched. [sic] but the manager scheduled for my carpet to be changed that same morning as my carpet was covered in patches of hairy white mold. I requested another date by sending papers to someone in Amherst I believe. I would like another court date to provide sufficient evidence of an inhabitable [sic] unit. I have fungal infection on my skin from the mold and I have PLENTY to submit.

5. This motion was never heard by the Court as the parties entered into an Agreement. Unfortunately, that Agreement does not appear to be mediated by a Housing Specialist and it does not address in any way the tenant's assertions in her motions.¹
6. The Court does not see a basis to bar the tenant from defending the motion for entry of judgment with assertions of breach of warranty and/or violations of the covenant of quiet enjoyment.
7. **Order:** Accordingly, this matter shall be scheduled for a Judicial Case Management Conference with the below signed justice on **February 27, 2025, at 9:00 a.m.** A hearing on the continued motion by the landlord for entry of judgment and on the tenant's defenses to same shall be scheduled by the Court at this hearing. Also, the parties may wish to seek leave of court at this hearing to propound limited discovery to be best prepared for the anticipated next hearing.

So entered this 13 day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

¹ Housing Specialists typically raise the issue of repairs and may have addressed the content the tenant's motion as part of their mediation. Additionally, the court has a volunteer attorney from Community Legal Aid available on Fridays (the day of the Agreement) to assist tenants and Housing Specialists may often ask tenants if they wish to consult with counsel before proceeding with mediation.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4807

PAH PROPERTIES, LLC,

Plaintiff

v.

MIA ROBERGE,

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 February 13, 2025. Plaintiff appeared through counsel. Defendant appeared self-represented. Plaintiff seeks to recover possession of a dwelling unit located at 65 Elmwood Avenue, Springfield, Massachusetts (the "Premises") from Defendant.

Based on the credible evidence and the reasonable inferences drawn therefrom, the Court finds as follows:

Plaintiff purchased the home in 2023. It sent and Defendant received a no-fault notice to quit dated June 11, 2024 terminating the tenancy as of August 1, 2024. Defendant has never paid rent or use and occupancy to Plaintiff. Defendant is physically disabled and has been looking for alternative housing.

The Court allowed Defendant's motion to file a late answer at the outset of trial. It denied her request for discovery because Defendant informed the Court that

she was not pursuing any counterclaims and that she only wanted more time to move.¹ The Court finds that she is entitled to a statutory stay under G.L. c. 239, §§ 9 et seq.

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

1. Judgment for possession only (plus court costs) shall enter for Plaintiff.
2. Execution (eviction order) may issue by written application pursuant to Uniform Summary Process Rule 13.
3. Use of the execution shall be stayed provided that Defendant pay \$700.00 for March use and occupancy by March 5, 2025 and \$700.00 for April use and occupancy by April 5, 2025. Plaintiff may use the execution on or after May 1, 2025.
4. 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 the contact.
5. The time period for use of the execution set forth in G.L. c. 235, § 23 shall be tolled through May 1, 2025.

SO ORDERED.
February 13, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

¹ In her answer, Defendant asserted that she paid a \$450.00 security deposit to the prior owner, but did not offer evidence of same. In any event, the maximum award of damages on the claim is \$1,350.00, which is far less than the \$7,000.00 of unpaid use and occupancy. Plaintiff agreed not to seek the unpaid use and occupancy at this time in order to obtain a move-out date.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-5006

PAPYRUS EQUITIES, LLC,
Plaintiff

v.

ASHLEY BOUTTE,
Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR JUDGMENT

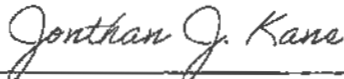
This summary process case came before the Court for a bench trial on February 13, 2025. Plaintiff appeared through counsel. Defendant appeared self-represented. Plaintiff seeks to recover possession of a dwelling unit located at 364 Belmont Avenue, Unit 33, Springfield, Massachusetts (the "Premises") from Defendant.

Defendant stipulated to Plaintiff's prima facie case for possession and does not contest that she has failed to pay rent and/or use and occupancy at a rate of \$800.00 per month for the past eight months. Defendant did not file an answer and did not assert any defenses at trial. Plaintiff offered to stay use of the execution through March 31, 2024 to give Defendant an opportunity to seek admission to a shelter or otherwise find a place to live.

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

1. Judgment for possession only shall enter for Plaintiff.¹
2. Execution (eviction order) may issue by written application pursuant to Uniform Summary Process Rule 13.
3. Use of the execution shall be stayed through March 31, 2025.
4. The time for use of the execution set forth in G.L. c. 235, § 23 shall be tolled through April 1, 2025.

SO ORDERED.
February 13, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

¹ If Plaintiff seeks to recover the unpaid rent and use and occupancy, it may file a motion to amend the judgment at a later date.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden , ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-2519

PITTSFIELD HOUSING AUTHORITY
PLAINTIFF(S)

v.
IESHIA ROBINSON
DEFENDANT(S)

ORDER

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

1. The eviction shall be canceled.
2. The current rent balance is \$1,743.60 after crediting \$360.00 paid today.
3. Tenant may be eligible for RAFT in the amount of \$486.00 (6 months at her share of \$81.00) plus the cancellation fees and court costs. She shall reapply immediately and upload all required documents. Plaintiff shall complete its portion of the application, including cancellation fees and court costs on the ledger provided to RAFT.
4. Tenant is due a tax refund on March 2, 2025 and will pay \$1,350.00 to Plaintiff, plus \$81.00 for March rent for a total of \$1,431.00 no later than March 5, 2025. If the payment is not made, Plaintiff may reschedule the levy. If she has not received her tax refund as anticipated, Tenant must file a motion to amend this order on or before March 5, 2025, in which case Plaintiff shall not reschedule the levy until after the hearing on Tenant's motion.
5. Tenant shall pay April rent by April 5, 2025.
6. If RAFT has not paid the remaining balance to \$0 by April 30, 2025, the tenant must pay the balance in full, along with May rent, by May 5, 2025. Plaintiff shall file a satisfaction of judgment within 14 days of Tenant reaching a zero balance, and the case shall be dismissed.
7. The time period in G.L. c. 235, s. 23 for use of the execution shall be tolled until further court order. A new execution may be obtained by application so long as the case remains open.
8. If the payment required in #4 is made, Plaintiff must file a motion to lift the stay if Defendant is not in compliance with the terms of this order.

SO ORDERED: Jonathan J. Kane DATE: 2/13/25
Jonathan J. Kane, First Justice

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden , ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. **24SP1920**

US Bank Trust NA as Owner Trustee ,
PLAINTIFF(S)

v.
Henryk Wysocki ,
DEFENDANT(S)

ORDER

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

The parties appeared for status on February 13, 2025.

The GAL (who is not acting as legal counsel for Defendant) raised the question of whether the notice to quit is defective. A legally adequate notice to quit is not a jurisdictional issue (which may be raised at any time in a case) but instead is an element of Plaintiff's prima facie case for possession. See *Cambridge St. Realty v. Stewart*, 481 Mass. 121, 128 (2018). Therefore, the Court will not dismiss the case at this time.

The GAL has raised issues of whether the former owner, Mr. Perez-Gonzales, has control over Defendant's finances and is unduly influencing Defendant's decisions. If Defendant is an elder, the GAL may report suspected financial exploitation to the Elder Abuse Hotline or the GAL may file a police report if he believes it is appropriate under the circumstances.

Because this is a post-foreclosure eviction and a First Tier Event has occurred, the Court shall schedule this case for trial before the undersigned judge in approximately six weeks. The parties shall be scheduled for a final pretrial conference approximately two weeks prior to the trial. The GAL may seek legal representation for Defendant and, if counsel cannot be retained, the GAL shall explain the trial process to him.

The Court shall schedule a status conference before this judge in 23SP5463 (the summary process case against the former owner) on the same date as the pretrial conference in this case. There shall be no continuances granted for the status conference.

SO ORDERED: Jonathan J. Kane DATE: 2/13/25
Jonathan J. Kane, First Justice

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-2240**

DELORES RODRIGUES,

Plaintiff,

v.

KEEANA MATOS,

Defendant.

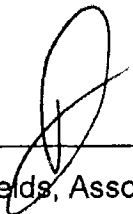
**ORDER for ENTRY OF
JUDGMENT**

After hearing on February 13, 2025, on the landlord's motion for entry of judgment, at which the tenant failed to appear, the following order shall enter:

1. The landlord reports that the tenant has failed to comply with the terms of the August Agreement of the Parties by failing to make a full rent payment in December 2024, and no payments since.
2. After consultation with a representative from Way Finders, Inc., it was confirmed that though the tenant has begun to work on a RAFT application, it is not yet "pending".

3. The landlord asserts that \$10,500 is outstanding in use and occupancy through February 2025.
4. Judgment shall enter for the landlord for possession plus \$10,500 plus court costs.
5. An execution may issue upon a timely filing and service of a Rule 13 Application.

So entered this 14 day of February, 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-4677

RACHNA MISTRI AND KAMLESH MISTRI,

Plaintiffs

v.

CARMEN RIVAS,

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 9, 2025. Plaintiffs appeared through counsel. Defendant appeared self-represented. Plaintiffs seek to recover possession of a dwelling unit located at 32 Nassau Street, 1st Floor, Chicopee, Massachusetts (the “Premises”) from Defendant.

Defendant stipulated to Plaintiff’s prima facie case for possession and only seeks time to move. The notice to quit terminated the tenancy as of November 1, 2024. Defendant has been paying use and occupancy each month and owes no rental arrears. She has been searching for a three-bedroom unit in Chicopee, where she wishes to reside given her child’s disability. The Court finds that Defendant is entitled to a further stay of execution pursuant to G.L. c. 239, §§ 9 et seq.

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

1. Plaintiff is entitled to judgment for possession only; however, pursuant to G.L. c. 239, § 9, entry of judgment and execution shall be stayed until further court order.
2. The stay shall be conditioned upon Defendant continuing to pay use and occupancy each month in full and on time.
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 the contact. She shall email a copy of the log to Plaintiff's counsel two weeks prior to the next court date.
4. The parties shall return for mediation at 9:00 a.m. on February 25, 2025. The purpose of the mediation is to negotiate terms for any further stay, if one is needed. If the parties cannot agree upon terms for a further stay, they may ask the Court to enter an order for a further stay forthwith, without need for further notice or motion.

SO ORDERED.
February 17, 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-4123

DARLENE POWELL,

Plaintiff

v.

INDIA POWELL,

Defendant

ORDER

This no-fault summary process case came before the Court for a bench trial on January 9, 2025. Both parties appeared self-represented. Plaintiff is married to Defendant's father. Plaintiff seeks to recover possession of a dwelling unit located at 210 King Street, Springfield, Massachusetts (the "Premises") from Defendant.

Plaintiff is co-owner of the Premises along with Defendant's father. Defendant's father did not appear for trial. The parties disagree as to his wishes with respect to Defendant's occupancy of the Premises. Defendant claims that he does not want her to be evicted. Given the foregoing, the Court deems him to be an indispensable party to this case, as a full resolution to this matter cannot be achieved without his participation.

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

1. If Plaintiff wishes to proceed with this eviction case, she must amend the complaint to add Defendant's father as a plaintiff. Leave of court is not necessary so long as an answer has not been filed.
2. If no action is taken on this case by April 15, 2025, it shall be dismissed without prejudice.

SO ORDERED.
February 17, 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-2295**

JOHN EVAN, JR.,

Plaintiff,

v.

LEYBI SANDOVAL,

Defendant.

ORDER

After hearing on February 13, 2025, on the tenant's motion to stay the landlord's use of the execution, at which each party appeared self-represented, the following order shall enter:

1. The court was able to confirm during the hearing from a representative from Way Finders, Inc. that there is an application for RAFT funds pending, and pursuant to G.L. c.239, s.15, there shall be a stay on the use of the execution pending said RAFT application.

2. Given that the landlord reports to the court that \$9,800 is outstanding in use and occupancy through February 2025 and that the most that RAFT might be able to pay is \$7,000, and given the pending nature of the RAFT application, the stay on the use of the execution shall be contingent upon the tenant paying her use and occupancy by the first week of each month beginning in March 2025 and going forward.
3. Additionally, if RAFT does find the tenant eligible and is able to issue funds to the landlord, the tenant shall be responsible for her ongoing use and occupancy plus \$100 towards the arrearage each month. RAFT shall treat this as a "repayment plan" for its purposes. The parties may move the court to increase or decrease this amount of arrearage payment.
4. The stay provisions of this order shall toll the timelines discussed in G.L. c.235, s.23.

So entered this 18 day of February, 2025.

Robert Fields, Associate Justice

Cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

Hampden, ss:

**HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 24-SP-5008**

LAKEVIEW LOAN SERVICE, LLC,

Plaintiff,

v.

DONALD L. GUIEL,

Defendant.

**ORDER FOR
ENTRY OF
JUDGMENT**

This matter came before the court on February 13, 2025, for trial. After hearing, the following order shall enter:

1. **Receipt of the Notice to Quit:** The defendant indicated on the pretrial stipulation that he did not stipulate to receipt of the Notice to Quit (Notice), dated October 29, 2024. The plaintiff provided evidence of service of the Notice through the filing of a return of service where Deputy Sheriff Michelle Camacho attested to service of the Notice by leaving it at the premises and by mailing it by first class mail---all on October 30, 2024.

2. The Sheriff's return of service is *prima facie* evidence of the facts stated therein. See, *Ryan v. Sylvester*, 358 Mass. 18, 20 (1990).
3. The defendant's stated in court, "I don't remember seeing that notice" and also, "If I got it, I missed it" does not sufficiently contradict or undermine the plaintiff's evidence that the notice was served and the court finds and so rules that the Notice was received by the defendant.
4. **Possession:** The defendant does not dispute the superior right to possession of the plaintiff.
5. Judgment shall enter for the plaintiff for possession. Given that the defendant has secured alternate housing for May 1, 2025 and there shall be a stay on the issuance of the execution until May 2, 2025. This stay shall also have the effect of tolling the timelines discussed in G.L. c.235, s.23.
6. The defendant offered to pay use and occupancy until he vacates at a monthly rate of \$1,200 but the plaintiff did not have authority to accept that arrangement. If the parties are able to reach agreement on use and occupancy going forward, they shall mark this matter for mediation and file a mediated agreement to that effect. If they are unable to make such arrangements, the plaintiff may file the appropriate motion for ongoing use and occupancy.

So entered this 18 day of February, 2025.

Robert Fields, Associate Justice

Cc: Court Reporter

springCOMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-2778

SUSAN M. FLORES 2023 TRUST,

Plaintiff,

v.

HOLLY PIETRUSZKA,

Defendant.

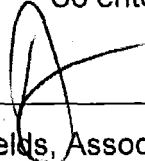
ORDER

After hearing on February 14, 2025, in accordance with G. L. c.239, s.9, at which both parties appeared, the following order shall enter:

1. The parties stipulate that the tenant has paid her use and occupancy since the court's ruling dated October 9, 2024.
2. The tenant asserted at today's hearing that she suffers from disabilities that make it difficult to organize a housing search log and that she was unable to reach the Tenancy Preservation Program to assist with same. Thus, she appeared at this hearing without a log, though one was required by the Court's last order (Dated December 20, 2024).

3. The tenant explained that her daughter inherited sufficient monies to purchase a home and that her housing search is focused on purchasing a home. She is asking for more time to do so.
4. Pursuant to G.L. c.239, s.9, the court may grant up to six months to a tenant to relocate when the tenancy has been terminated due to no-fault of the tenant (as is the case here). That statute also allows for a stay for as much as twelve months if the tenant or a household member has disabilities.
5. Early April 2025 will be six months since the date of the Court's trial decision and order. As noted above, if the tenant can meet her burden that she is disabled, the court may consider whether to extend the stay for up to twelve months.
6. This matter shall be scheduled to the date below for further hearing in accordance with G.L. c.239, s.9. At said hearing, the tenant shall provide documentation and other appropriate proof to satisfy her burden that she has disabilities and is covered by the statute for a longer stay. In the meantime, the continued stay in issuance of the execution shall remain contingent upon the tenant paying her use and occupancy of \$1,050 each month.
7. This matter shall be scheduled for further hearing on **March 21, 2025, at 9:00 a.m.**

So entered this 18 day of February, 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-4613

MARIA DEL RIO,

Plaintiff

v.

KORI COOPER,

Defendant

ORDER ON DEFENDANT'S
MOTION TO DISMISS

This summary process case came before the Court on February 19, 2025 on Defendant's motion to dismiss. Plaintiff (the landlord) appeared with counsel. Defendant (the tenant) appeared self-represented.

Defendant argues that the case should be dismissed for two reasons. First, she contends that Plaintiff served her with three different notices to quit, thereby rendering the notice upon which this case rests defective. Second, she claims that Plaintiff failed to name one of the adult occupants of the household in the summons and complaint.

Turning first to the issue of the notice, the notice to quit entered in this Court upon filing this case is unequivocal and unambiguous. It gives Defendant a full rental period and at least thirty days' notice of termination. See G.L. c. 186, § 12. It does not specify any cause, which appropriate in a no-fault eviction case. It informs

Defendant to disregard any prior notice to vacate. To the extent Defendant contends that matters outside of the pleadings (here, previous notices to quit) created ambiguity and confusion in her mind, she can raise the issue as a defense at trial. See *Cambridge Street Realty, LLC v. Stewart*, 481 Mass. 121, 129-30 (2018) (notice to quit is not a matter of jurisdiction but is more properly characterized as an element of the landlord's prima facie case).

With respect to Defendant's contention that the case is defective because the summons and complaint fails to name an adult tenant (her son Kaliph Thompson), Defendant is simply wrong. The summons and complaint in fact names Kaliph Thompson as a tenant/occupant, as does the notice to quit. There is no merit to Defendant's claim that Kaliph Thompson was not properly named in this case.¹

For the foregoing reasons, Defendant's motion to dismiss is DENIED.

SO ORDERED.

February 19, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

¹ The Clerk's Office apparently failed to add Kaliph Thompson as a party despite being named in the summons and complaint. The Court shall correct this oversight administratively.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Berkshire, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24SP1853

POAH COMMUNITIES, LLC

PLAINTIFF(S)

v.
BARBARA SEEKINS

DEFENDANT(S)

ORDER

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

Defendant substantially violated material terms of the prior court agreements. She permitted Todd Seekins to occupy the unit after the December agreement, and she interfered with the quiet enjoyment of other residents by causing a stove fire that forced the evacuation of the entire building (after having allowed the smoke detectors to be removed. Accordingly, the following order shall enter:

1. Judgment for possession shall enter for Plaintiff.
2. Execution may issue after expiration of the appeal period.
3. Use of the execution and the time period set forth in G.L. c. 235, s. 23 shall be tolled until April 30, 2025.
4. If Defendant has not vacated by April 30, 2025, the stay shall be lifted without the need for further court order.
5. Defendant has agreed to use best efforts to vacate by March 15, 2025, although her failure to do so will not be a violation of this order.
6. Plaintiff may investigate and install a "cook stop" or similar device to prevent the range and oven from operating if no one is present in the kitchen.
7. The terms of the previous court orders, including without limitation the prohibition against Todd Seekins occupying the unit, shall remain in full force and effect.
8. If Plaintiff alleges a material breach of this order, it may file a motion to lift the stay on use of the execution.

SO ORDERED:

Jonathan J. Kane
Jonathan J. Kane, First Justice

DATE: 2/19/25

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 25-CV-145

JONATHAN AVERY,

Plaintiff,

v.

ORDER

**WILKENSON KNAGGS a/k/a WILLIAM
STEVENSON, and PRESTIGIOUS ONE, LLC,**

Defendants.

After hearing on February 19, 2025, at which the defendants did not appear, the following order shall enter:

1. This matter came before the court on the plaintiff tenant's complaint and motion for injunctive relief and was consolidated for hearing with 25-CV-141 *Grimes v. Knaggs*, et al and 25-CV-144 *Berlied v. Knaggs*, et al. It appears from the City of Springfield Code Enforcement CONDEMNATION paperwork that the property is owned by Prestigious One, LLC. Accordingly, Prestigious One, LLC shall be added as a party-defendant in accordance with Mass. R.

Civ. P. 19 with a mailing address of [REDACTED]

[REDACTED]

2. The original defendant, William Stevenson, is the name that Wilkenson Knaggs uses with the plaintiff tenant. Accordingly, Wilkenson Knaggs shall be added as a party-defendant as the person in control of the subject premises—with a mailing address of [REDACTED] pursuant to Mass. R. Civ. P. 19.
3. The plaintiffs in these three related matters (hereinafter, “tenants”) testified that they rent rooms on the 2nd and 3rd floors of what they believe is an illegal rooming house.
4. The documents submitted into evidence from the City of Springfield Code Enforcement Department indicate that the entire dwelling has been condemned.
5. The defendants shall immediately provide a hotel or motel accommodation which has cooking facilities for the plaintiff tenant beginning this night (February 19, 2025) and continuing through to February 26, 2025. If said accommodations do not have cooking facilities, the defendants shall provide the tenant with \$75 in cash each day for a food stipend.
6. The defendants shall also immediately make sufficient repairs to have the condemnation lifted.
7. Should the condemnation be lifted by the City before the next hearing, the obligation for alternative housing shall be suspended.

8. This matter shall be scheduled for further hearing on **February 25, 2025, at**

9:00 a.m.

So entered this 20th day of February, 2025.

Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-2078

HAMPTON HOUSING ASSOCIATES,

Plaintiff

v.

CELESTE ORTEGA,

Defendant

ORDER

This matter came before the court on February 20, 2025 for further hearing following an order entered on January 14, 2025 cancelling an eviction. At the prior hearing on January 13, 2025, Defendant's counsel made an oral motion to dismiss, arguing that at the time the notice to quit for nonpayment of rent was served upon Defendant, no rent was owed, thereby rendering the termination notice defective. An evidentiary hearing on this issue was then scheduled.

Based on the credible evidence and reasonable inference drawn therefrom, the court finds that Defendant did not owe any rental arrears on March 27, 2024 when the notice to quit was served. Therefore, the notice to quit is of no legal consequence and the complaint upon which it is based must be dismissed with prejudice. The execution has been returned to the court.

Therefore, Defendant's motion to dismiss is ALLOWED.¹

SO ORDERED.

February 20, 2025

cc: Court Reporter



Jonathan J. Kane, First Justice

¹ Defendant represented that she would pay all unpaid rent that has accrued since June 2024 forthwith.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden , ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24SP3906

SILKTREE PROPERTIES, LLP

PLAINTIFF(S)

v.
CHARLOTTE CHABOT ET AL

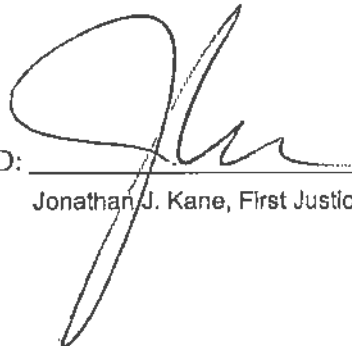
DEFENDANT(S)

ORDER

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

1. The caption of the case shall be changed to reflect the correct spelling of Defendants' last name (Chabot).
2. The levy scheduled for February 24, 2025 shall be cancelled.
3. Any nonrefundable cancellation fees shall be included on the ledger Plaintiff provides to RAFT, along with court costs and unpaid rent. According to the RAFT representative, Defendant has \$4,872.00 of remaining eligibility.
4. This levy is being cancelled in part because of the contradictory information regarding the balance of arrears. As of October 1, 2024, Section 8 changed Defendant's rent share to \$0. However, Plaintiff's property manager said Defendant has been charged each month because the contract rent is higher than that approved by Section 8. Given that it is unlawful to require a subsidized tenant to pay more than approved by Section 8, Plaintiff shall recalculate the tenant's balance based on the Section 8 approved rent prior to submitting a new ledger to RAFT.
5. Use of the execution shall be stayed and the period provided in c. 235 s. 23 tolled for 6 months so that the parties can determine the correct rent balance, the amount of the RAFT award (if any) and the repayment plan. If no agreement can be reached to sustain the tenancy, Plaintiff may file a motion to lift the stay. Without further court order, the execution may not be used.

SO ORDERED:



Jonathan J. Kane, First Justice

DATE: 2/20/25

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0154

NASIR AWAN,

Plaintiff

v.

ORDER TO REMOVE OCCUPANTS

JOHN DOE and JANE DOE,

Defendants

This case came before the Court for hearing on February 21, 2025. Based on Plaintiff's sworn statement and the testimony of the two defendants who appeared in court to oppose the request (whose names were not placed into the court record) the court finds that the garage located at 1548 Carew Street (the "subject premises") is not a legal apartment and that all occupants therein must vacate forthwith.

Accordingly, the following order shall enter:

1. All occupants of the subject premises must vacate immediately. Plaintiff is not required to commence eviction proceedings to recover possession as the occupants do not have his permission to occupy the subject premises and their continued occupation is unsafe and unlawful.
2. If all occupants do not vacate the subject premises voluntarily, they shall be considered trespassers, and the Springfield Police Department is authorized to assist Plaintiff in removing all occupants therefrom.

3. Any personal items left behind by the occupants shall be stored by Plaintiff in accordance with G.L. c. 239, § 4.

SO ORDERED.

February 21, 2025

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

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0061

SPRINGFIELD HOUSING AUTHORITY,

Plaintiff,

v.

JENNIFER LOWNDS,

Defendant

ORDER MODIFYING
PRELIMINARY INJUNCTION

This matter came before the court on February 20, 2025 for hearing following entry of a preliminary injunction pursuant to G.L. c. 139, § 9. The preliminary injunction entered on February 3, 2025 following an evidentiary hearing on January 30, 2025 during which the judge stated his order from the bench. Among other requirements, the order required Defendant not to allow any individuals to enter her unit located at 31 Morgan Street, Apt. 1, Springfield, Massachusetts (the "Premises") other than her named children.¹ Defendant was permitted to reside at the Premises pending trial provided she complied with the order.

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

Immediately following the hearing on January 30, 2025, Defendant substantially violated the order by allowing various individuals into the building where

¹ It also precluded her from allowing her children enter her unit between the hours of 11 p.m. to 6 a.m.

the Premises are located and into the Premises themselves. Plaintiff's manager of public safety testified credibly (and offered supporting still photographs taken from video surveillance cameras) that Defendant allowed one or more individuals with known criminal histories into her unit. The court concludes that she knowingly and willingly violated the court order, and by doing so, placed the safety and welfare of other residents of the housing authority property at risk.

In her defense, Defendant claims she thought the court order allowed her to have guests except between the hours of 11:00 p.m. and 6:00 a.m. Not only is she mistaken about the clear terms of the order, but she also violated the terms of the agreement as she understood it by allowing one or more non-family members into the Premises between 11:00 p.m. and 6:00 a.m. soon after the January 30, 2025 hearing. Defendant defended her actions by claiming that she allowed one individual to enter because she was afraid of what he might do to her if she did not open the door. The court finds her testimony to be not credible.²

Considering the court's findings, the preliminary injunction is modified as follows:

1. Effective at 1:00 p.m. on February 25, 2025, Defendant shall be barred from residing at or entering upon the Premises or the property of the Springfield Housing Authority until further court order.³
2. The Springfield Police Department is authorized to assist Plaintiff in enforcing the terms of this order by removing Defendant from the Premises

² [REDACTED]

³ This order was communicated to Defendant from the bench.

after 1:00 p.m. on February 25, 2025. The removal of Defendant is not an eviction, but instead is a preliminary injunction that will remain in place pending trial.

3. The issue of possession will be addressed on March 14, 2025 at 9:00 a.m. in docket number 25H79SP000532.⁴
4. Defendant may make an appointment with Plaintiff's management after February 25, 2025 if she needs access to retrieve her belongings.
5. All aspects of the preliminary injunction not modified by this order remain in effect.

SO ORDERED.

DATE: February 21, 2025


Jonathan Kane, First Justice

cc: Court Reporter

⁴ A First Tier Court Event is scheduled in docket number 25H79SP000532 on March 14, 2025 at 9:00 a.m., but given the circumstances presented in this case, the court waives the FTCE and will use the March 14, 2025 court date for trial. The court explained this change to Defendant at the hearing today.

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 24-SP-4042

APPLETON CORPORATION,

Plaintiff,

v.

DAVID HILL,

Defendant.

ORDER

After hearing on February 20, 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 tenant had evidence of payments to the landlord for which the landlord's attorney was not aware from the ledger her client provided her.
2. Additionally, after consulting with a representative from Way Finders, Inc. during the hearing, it was confirmed that the tenant has a pending RAFT application and it is waiting on a response and submission by the landlord.
3. During the hearing the plaintiff's counsel provided Way Finders, Inc. an accurate email address for the landlord. Counsel also made a commitment

that the landlord will provide a response and necessary paperwork to the RAFT application by no later than February 21, 2025.

4. Way Finders, Inc. reported that the tenant is eligible for the full \$7,000 in RAFT funds.
5. Based on the foregoing, the motion for entry of judgment is denied.
6. The parties shall pursue in good faith the RAFT application.
7. Going forward, there shall a stay on entry of judgment contingent upon the tenant paying his rent plus \$150 per month beginning in March 2025.
8. Additionally, the tenant shall be allowed to pay his rent by the Friday of the first full week of the month and an additional \$150 towards arrearage by the Friday of the third full week of the month.
9. The RAFT program shall consider the \$150 extra payment each month as a "repayment plan".
10. If the tenant has an increase of 20% or more in income in a consistent manner over a period of 13 paychecks (six months) he should so notify the landlord and the parties should engage in a good faith effort to negotiate a new payment plan given the tenant's increase in income. Any such amended payment plan should be filed with and reviewed by the court.

So entered this 24 day of February, 2025.

Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

B.G. MASSACHUSETTS I, LLC,

Plaintiff,

-v.-

DOCKET NO. 24SP03381

GREGORY PAGAN, JR.,

Defendant.

ORDER

This matter came before the court on February 21, 2025 for a hearing on the defendant's motion to vacate the default judgment. The plaintiff appeared through its attorney. The defendant appeared and was self-represented.

This eviction case is based on nonpayment of rent and was filed on August 23, 2024. The parties appeared for a first tier court event on October 24, 2024. Because there was an application for RAFT financial assistance pending, the case was continued to December 5, 2024. On the continued date, the parties were not able to resolve the case, so the case was scheduled for trial on December 19, 2024 at 2:00 p.m. The parties were given a notice of next court event in hand by the housing specialist. On the trial date, the parties entered into an Agreement instead of going to trial that day. By its terms, the plaintiff assented to the defendant's motion to file a late answer. The defendant agreed to pay the January use and occupancy (\$1,148) and \$600 toward the arrearage. The parties agreed to continue the trial to January 30, 2025 at 2:00 p.m. Again, they received a notice of next court event in hand. On January 27, 2025 the defendant filed his answer to the complaint. In it, he did not raise any defenses or counterclaims. Other than basic information about the tenancy, the only boxes he checked off referred to applying for rental assistance, if available, and requesting time to move.

The defendant did not appear on January 30, 2025 for trial. A default judgment entered on February 3, 2025 for possession and \$2,266.29 in unpaid rent/use and occupancy with costs. He filed the instant motion to vacate the default judgment on February 7, 2025. The plaintiff applied in writing for the execution on February 10, 2025. The Clerk's Office has not issued the execution to date because of the defendant's pending motion.

The defendant testified that he did not appear for trial on January 30 because he was late coming to court from his job in South Deerfield. He testified that if he had been present for trial he would have offered a small amount of money toward what he owed. (He had not paid what he had agreed to pay on January 15 and 20.) He would have tried to settle the case. The court notes that he did not present any defenses in the written answer he filed. The defendant received RAFT financial assistance in November as anticipated by the October 24 continuance. Mr. Pagan exhausted his RAFT benefits on November 27, 2024. He will not be eligible to apply again until June 2025. The court finds that the defendant did not demonstrate excusable neglect for failing to appear for trial at the scheduled time. The court further finds that the defendant did not present a valid defense to the nonpayment of rent eviction.

The plaintiff reported that the arrearage has grown to \$5,979.89 in rent/use and occupancy through February 2025 with \$310.54 costs. The defendant offered \$1,800 toward this amount at the hearing.

Order

After hearing, the defendant's motion to vacate the default judgment is **DENIED**. The Clerk's Office will issue the execution on the February 3, 2025 judgment pursuant to the plaintiff's written application. G.L. c. 239 §15 does not apply in this case because there is no pending application for rental assistance.

February 24, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-SP-2

CASTLE PINES, LLC,

Plaintiff,

v.

HALEY CLEMENT and MIGUEL RODRIGUEZ,

Defendants.

**ORDER for ENTRY
OF JUDGMENT**

This matter came before the court for trial on February 20, 2025, at which the plaintiff landlord appeared through counsel and the defendant tenants appeared self-represented. After hearing, the following order for judgment shall enter:

1. The parties stipulated to the landlord's claims for possession and for \$4,897 in use and occupancy through February 2025.
2. Judgment shall enter for the landlord for possession plus \$4,897 plus court costs.

3. There shall be a stay on the execution until April 1, 2025, contingent upon the tenants paying March 2025 use and occupancy of \$900 by March 7, 2025.

So entered this 24 day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

Hampden, ss.

**HOUSING COURT DEPARTMENT
WESTERN DIVISION**

ROXANNE M. CODY,

Plaintiff,

-v.-

DOCKET NO. 25CV00157

HG PROPERTY MANAGEMENT,

Defendant.

ORDER

This matter came before the court on February 21, 2025 for a hearing on the plaintiff's request for an emergency order. The plaintiff appeared and was self-represented. The defendant appeared through its attorney.

The defendant is the managing agent for the owner of the subject rental premises located at 204 Pearl Street #1R – 1st floor in Springfield, Massachusetts. The apartment is one of twenty apartments at the property rented to the Center for Human Development (CHD). In turn, CHD rented this apartment to the plaintiff. At the request of CHD, Ms. Cody moved into this apartment in late December 2024 from another CHD apartment, where she had lived for six months, to resolve a conflict with her neighbor. She did not look at the apartment before she moved in. She testified that the apartment is "uninhabitable". She submitted pictures of conditions in the apartment (Exhs 1 and 2). Defendant submitted two inspection reports and orders from the City of Springfield Code Enforcement Housing Division dated December 31, 2024 (Exh 3) and February 18, 2025 (Exh 4) citing the landlord for violations of the state Sanitary Code. They show the same violations. The deadline to complete the repairs is now March 4, 2025. The plaintiff asks that the defendant relocate her to alternative housing while the repairs are completed safely.

The defendant reported that the management company's agents were in the apartment at that time repairing the floors. They expected to complete the flooring by Monday, February 24 and the rest of the repairs by Friday, February 28. The defendant reported that CHD gave them permission to enter the apartment to make the repairs that day, although Ms. Cody reported that she had denied access to CHD.

Based on the inspection reports and the pictures, the court finds that the apartment is not "uninhabitable" although there are Code violations that must be corrected. As the defendant noted, the City did not condemn the unit. The court finds that there is insufficient evidence at this time to warrant an order that the defendant relocate the plaintiff in alternative housing while the repairs are being made.

Order

After hearing, the following orders will enter:

1. The defendant will make all repairs as required by the City of Springfield Code Enforcement Housing Division at the subject rental premises.
 - a. Such repairs will be completed by February 28, 2025, if possible, and in no event later than March 5, 2025.
 - b. All work will be done in a professional and workpersonlike manner.
2. The plaintiff will grant reasonable access to the apartment through CHD so that the repairs can be completed as scheduled.
3. The case is continued to **February 28, 2025 at 2:00 p.m.** to determine the status of the repairs.

The court waives the \$90 injunctive relief fee in this case.

February 24, 2025

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

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

DAJJAL DUDLEY,

Plaintiff,

-v.-

DOCKET NO. 25CV00096

SANDEEP,

Defendant.

ORDER

This matter came before the court on February 21, 2025 for a continued hearing on the plaintiff's request for an emergency order. The plaintiff appeared with his girlfriend, Kenyetta Alston. The defendant did not appear. Both parties are self-represented. The court continued the hearing to February 21 to give the defendant a second opportunity to show cause why the court should not grant the relief which the plaintiff seeks. The plaintiff testified that he showed a copy of the court's February 13, 2025 and the hearing notice sent by the Clerk's Office to Sandeep and that they discussed the February 21 hearing date.

The plaintiff testified that since the last hearing he met with his tenant, Rajat Singh, and the defendant Sandeep.¹ They all agreed that both occupants would move out of the premises by March 31, 2025.² Mr. Dudley testified that he is satisfied with this arrangement. He testified that the breaches of quiet enjoyment caused by Sandeep have stopped.

¹ Mr. Dudley submitted a copy of a tenancy at will agreement dated September 13, 2024 with Mr. Singh only (Exh 1). Paragraph 15 of the rental agreement prohibits the tenant from assigning the rental agreement or subletting the premises without prior written permission of the landlord.

² The court notes that Mr. Singh is not a party to this case and therefore is not subject to this order. Mr. Singh is a tenant of the landlord pursuant to their tenancy at will agreement. The landlord would have to proceed with a summary process action against Mr. Singh if he does not move as he agreed to do.

Orders

After hearing, the following orders will enter:

1. As requested by the plaintiff, the Clerk's Office will amend his name in the docket to read Dajjal Dudley.
2. The defendant, Sandeep, will vacate the subject premises located at 32 Lafayette Street in Springfield, Massachusetts no later than March 31, 2025, as he agreed to do.
3. The Clerk's Office will impound the Social Security card and drivers licenses submitted in error by the plaintiff.

February 24, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-CV-112

CHRISLENA HALL,

Plaintiff,

v.

DOMONIQUE DUKES and CAROL SMITH,

Defendants.

ORDER

After hearing on February 20, 2025, at which all three parties appeared self-represented, the following order shall enter:

1. The plaintiff is seeking the removal of the defendant Domonique Dukes' two cameras.
2. At the beginning of the hearing, before taking in any evidence, the parties stipulated that the plaintiff is hopeful to be moving out of the premises at the beginning of March 2025 and Ms. Dukes agreed to remove her cameras until the next court hearing.

3. This matter shall be scheduled for further hearing on the plaintiff's request for injunctive relief for the date and time noted below.
4. Domonique Dukes shall FORTHWITH remove the two cameras and not reinstall them until further order of the court.
5. If, as anticipated, the plaintiff moves out prior to the next hearing, she shall report same to the court and the next hearing shall be taken off the list. Otherwise, the parties shall appear and be heard.
6. This matter shall be scheduled for **March 5, 2025, at 9:00 a.m.** for further hearing, if necessary, on the plaintiff's request for injunctive relief.

So entered this 24 day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 23-SP-2507

JARVIS HEIGHTS APARTMENTS,

Plaintiff,

v.

BRANDON COLLINS,

Defendant.

ORDER

After hearing on February 19, 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 appeared through counsel and without a witness. The tenant challenged the attorney's reporting of the outstanding balance, explaining that he made a payment of \$4,800 to the landlord on February 12, 2025.
2. The tenant also explained that he had to take periods of time off of work including because his brother passed away. He also explained that he

believes that he would be able to meet the terms of a repayment plan if he could pay weekly and pay an additional \$250 each month towards the arrearage (instead of \$500 as originally agreed).

3. Because the tenant challenged the ledger figures reported by the landlord's counsel, the motion cannot be allowed today.
4. That said, the court finds there to be a basis to amend the repayment terms as follows: The tenant shall pay his rent plus \$250 each month until the balance is \$0 (landlord reports that court costs have already been paid). He may make weekly payments so long as the total each month is rent plus \$250.
5. If there is a significant downward change in the tenant's income he should report that to the landlord or its attorney and if arrangements cannot be made to amend the terms of this order, he may wish to file a motion seeking an amendment in the payment terms.

So entered this 24 day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 23-SP-4024

JARVIS HEIGHTS APARTMENTS,

Plaintiff,

v.

YAZMIN RIVERA,

Defendant.

ORDER

After hearing on February 19, 2025, on the landlord's motion for entry of judgment at which the plaintiff landlord appeared through counsel and the defendant tenant appeared self-represented, the following order shall enter:

1. The parties stipulate that though the tenant made some payments since the September 20, 2024, Agreement, the tenant did not strictly comply with its payment terms.
2. The landlord asserts that \$8,272.50 is outstanding in use and occupancy through February 2025.

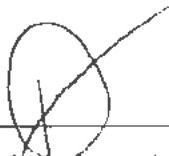
3. The tenant explained that directly after the Agreement, she was hospitalized on September 25, 2024, and did not leave the hospital until October 4, 2024. She then was hospitalized four additional times (from October 12 to 18, 2024, October 31 to November 13, 2024, January 16 to January 28, 2025, and February 5 to 13, 2025).
4. She explained that her fiancé helps with the rent payments but as her PCA, his hours are zeroed-out during her hospitalizations.
5. Regarding RAFT, the tenant's application "timed out" in November 2024, for failure of the tenant to provide sufficient "hardship" documentation.
6. The tenant further explained that she has lost her mother, father, and grandmother to COVID and she was required to use funds for their funerals.
7. Lastly, the tenant explained [REDACTED] which requires the electricity to be working so she prioritizes the electric bill.
8. Lastly, the tenant very much wishes to have her rent deducted automatically from her bank account. The landlord has a direct deposit system called "Direct Secure Payment" by a company named ZEGO. The parties shall work together in good faith to have this system put in place for the rent each month going forward.
9. Given the tenant's failures to make all of the payments required under the terms of the Agreement, judgment shall enter for the landlord for possession plus \$8,272.50.
10. As a reasonable accommodation based on the tenant's disabilities the following terms shall be instituted:

- a. Issuance of the execution shall be stayed contingent upon compliance with the terms of this order.¹
- b. The tenant shall pay her use and occupancy plus \$150 towards the arrearage beginning in March 2025, by the first week of each month.
- c. The term from the September 2024 Agreement (Paragraph 4) that the full payment of arrearage be paid by the end of February 2025 is vacated.

11. The tenant shall re-apply for RAFT funds. She is urged to work with Springfield Partners located at 721 State Street in Springfield (Tel: 413-263-6500) on her RAFT application---particularly on her "hardship" documentation.

12. The RAFT program should view the \$150 monthly payment towards arrearage as a "repayment plan".²

So entered this 24 day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

¹ Execution may only issue upon motion and hearing. The timeframes noted in G.L. c.235, s.23 shall be tolled by the terms of this order.

² This arrearage payment of \$150 per month may be amended at a later time upon motion.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

SHIRELLE LUMPKIN & CHRIS HARVEY,

Plaintiff,

-v.-

DOCKET NO. 24CV00917

KIM TRAN,

Defendant.

ORDER

This matter came before the court on February 21, 2025 for a hearing on the defendant's motion. The plaintiffs appeared and were self-represented. The defendant appeared with her attorney.

The defendant filed the motion now before the court herself to "notify" the court of certain things. As explained at the hearing, there is no need to so "notify" the court. However, her attorney explained that Ms. Tran seeks a clarification of the first provision of the court's November 19, 2024 order. That provision ordered, "The defendant and her agents may continue to renovate the first floor apartment and to conduct maintenance at the premises. However, they shall do so only between the hours of 7:00 a.m. and 7:00 p.m." so as not to interfere with the quiet enjoyment of the plaintiffs who live in the second floor apartment. Ms. Tran reported that the renovations to the first floor apartment are now complete and that she intends to live in the unit until it is leased to new tenants. There is nothing in the court's November 29, 2024 order which prevents her from doing so.

The plaintiffs question why the landlord would want to move into the unit at this time and why she would do so while there is an eviction case pending in this court (*Tran v. Harvey &*

Lumpkin, No. 24SP05099). She is not required to give a reason for choosing to move into the first floor apartment at this time.

The defendant's motion also "notified" the court that the tenants' minor child trespassed in the first floor apartment. The plaintiff's strongly dispute the allegation that anyone from their household was in the first floor apartment and that if there was someone there, it was not their child. Ms. Tran now concedes that it may have been the tenant's nephew and not their son. In any event, the court takes no action on this part of the defendant's motion. The parties are urged to consult an attorney regarding any claims of trespass.

Orders

After hearing, the following clarification and order enter:

1. There is nothing in this court's November 29, 2024 order which prevents the defendant from living in the first floor apartment.
2. The remainder of the orders given in the November 29, 2024 remain in full force and effect (nos. 2 through 5), specifically including, but not limited to the requirement that the landlord not interfere with the quiet enjoyment of the tenants.

February 24, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0039

NORTHAMPTON HOUSING AUTHORITY,

Plaintiff

v.

LUIS RUIZ;

Defendant

ORDER ON APPLICATION FOR
INJUNCTIVE RELIEF

This case came before the court on January 27, 2025 on Plaintiff's application for injunctive relief. Plaintiff appeared through counsel. Defendant failed to appear. The property in question is located at 35 Fruit Street, #B-32, Northampton, Massachusetts (the "Premises"). Plaintiff seeks an order that Defendant be barred from the property known as Cahill Apartments pending the levy on execution in a summary process case.

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 describing the excessive traffic entering and exiting the Premises and the building where the Premises are located, and the dramatic impact of this traffic on the peaceful enjoyment of the other residents of this housing authority property. Moreover, Mr. Ruiz has had unauthorized occupants living with him, maintained unsanitary conditions in the Premises and tampered with his smoke detector. Mr. Ruiz was given notice of the lease violations and he had ample opportunity to alter his behavior.

Mr. Ruiz failed to appear to present a defense. Plaintiff has demonstrated a reasonable likelihood of prevailing on the merits of its claim that Mr. Ruiz substantially violated material terms of his lease.

Accordingly, a preliminary injunction shall enter against Mr. Ruiz. It is ordered that:

1. Mr. Ruiz shall vacate the Premises following receipt of a 48-hour notice served by a constable or deputy sheriff.
2. Mr. Ruiz may not return to the Premises without further court order.¹
3. After Mr. Ruiz vacates, Plaintiff may change the locks to secure the unit.
4. If Mr. Ruiz fails to vacate voluntarily, and if the execution in the summary process action has not been levied upon, Plaintiff may seek the assistance of

¹ A First Tier Court Event was scheduled for this day in 24SP4938, the eviction case commenced by Plaintiff against Defendant. Because he failed to appear, judgment for possession shall enter by default against Defendant. Plaintiff may obtain an execution in the ordinary course to regain legal possession of the Premises.

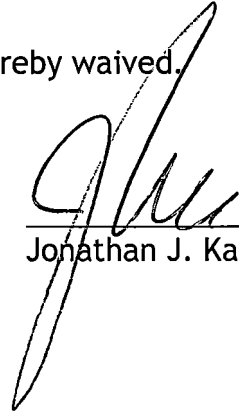
the Northampton Police Department, whose officers are authorized to assist Plaintiff in having Mr. Ruiz removed from the Premises pending levy on the execution in the eviction case.

5. The fee for injunctions is hereby waived.

SO ORDERED.

February 24, 2025

cc: Court Reporter



Jonathan J. Kane, First Justice

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

NORTHEAST II APARTMENTS L.P.,

Plaintiff,

-v.-

DOCKET NO. 24SP01695

MELISSA FELICIANO,

Defendant.

ORDER

This matter came before the court on February 21, 2025 for a hearing on the plaintiff's motion to enter an amended judgment and execution. The plaintiff appeared through its attorney. The defendant appeared and was self-represented.

This eviction case is based on nonpayment of the tenant's share of the subsidized rent. A default judgment entered against the defendant on May 29, 2024 for possession and \$432.96 in unpaid rent/use and occupancy with costs. The defendant's motion to vacate the default judgment was denied on August 6, 2024. The execution issued on September 17, 2024 on the plaintiff's written application. The plaintiff had the deputy sheriff serve a forty-eight hour notice that the execution would be used to move the defendant out of the apartment on November 5, 2024. The defendant filed a motion to stop the move-out. On October 31, 2024, the parties entered into an Agreement in which the landlord agreed to cancel the move-out and the tenant agreed to pay the \$900 cancellation fee. The defendant agreed to pay her portion of the monthly rent/use and occupancy as calculated by the Holyoke Housing Authority by the first of each month and to pay \$200 toward the arrearage by the twenty-second of each month, both beginning in November 2024 and continuing until she reached a zero balance. The total arrearage was \$1,574.42, representing \$414.96 unpaid rent/use and occupancy through October 2024, \$259.46

costs, and \$900 cancellation fee. The parties agreed that the defendant would apply for RAFT financial assistance and that both parties would cooperate with the application process.

Paragraph 8 of the Agreement provided that if the defendant did not make the payments as she agreed, the landlord could use the execution.

The defendant testified that she made all of the payments or that she thought she only had to pay for two months. She submitted money order/cashier check receipts showing payments of \$202 on November 25, 2024 and on December 23, 2024 (Exh 1). The plaintiff reported that the defendant made more payments than the two receipts she submitted, but that she did not make the additional payments toward the arrearage. The arrearage through February 2025 is \$1,181.71 with \$259.46 costs. (The \$900 cancellation fee for the stopped move-out is included in the arrearage.) The defendant did not apply for RAFT financial assistance, although she said she planned to do so after the hearing.¹ She offered a payment plan of \$50 per month toward the arrearage in addition to paying her monthly portion of the rent/use and occupancy.²

The court finds that the defendant did not substantially comply with material terms of the parties' October 31, 2024 Agreement because she failed to make the payments toward the arrearage. Therefore, the court finds that the plaintiff is entitled to an amended judgment. This tenancy was terminated based on nonpayment of rent and is governed by G.L. c. 239 §15. However, there is no pending RAFT application at this time.

Orders

After hearing and a review of the record, the plaintiff's motion is **ALLOWED** as follows:

1. An amended judgment will enter for the plaintiff for possession and \$1,181.71 in unpaid rent/use and occupancy through February 2025 with \$259.46 costs.
2. The plaintiff will return the September 17, 2024 execution to the court forthwith.
3. Execution on the amended judgment will issue on the plaintiff's written application filed no sooner than March 17, 2025 to give the defendant another opportunity to apply for RAFT financial assistance.

¹ Because this tenancy is subsidized, the defendant would have to document a hardship or good cause for not paying her portion of the rent as established by the Housing Authority.

² When the parties entered into the October 31, 2024 Agreement, the tenant's portion of the rent was \$170. It increased to \$202 effective December 1, 2024 and to \$226 this month.

4. If the defendant applies for RAFT, both parties will provide the documentation required by Wayfinders to complete the application.
 - a. The plaintiff will include the court costs and the cancellation fee on the ledger,
5. The brief stay of the execution included in this order is governed by G.L. c. 235 §23.
6. The defendant will pay her portion of the March rent/use and occupancy in full and as calculated by the Holyoke Housing Authority no later than March 7, 2025.
7. The defendant will pay \$50 toward the arrearage no later than March 22, 2025.

February 24, 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-1939

S & C INVESTORS, LLC,

Plaintiff,

v.

MARIE PATRUNO,

Defendant.

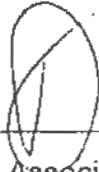
ORDER

After hearing on February 20, 2025, on the defendants' motion to require the landlord return the Execution to the court, for which counsel appeared for all the parties, the following order shall enter:

1. Because the plaintiff failed to serve the defendant's attorney on its motion for issuance of the execution--which was allowed on January 17, 2025--the plaintiff shall immediately return the Execution to the court and that matter shall be rescheduled for hearing.
2. The plaintiff shall provide an accurate ledger ,

3. The defendant shall have until March 6, 2025, to file and serve her opposition to the plaintiff's motion for issuance of the Execution.
4. A hearing shall be scheduled for **March 13, 2025, at 9:00 a.m.** on the plaintiff's motion for issuance of the Execution.
5. In the interim, the parties shall continue to engage in a Reasonable Accommodation dialogue.

So entered this 24 day of February, 2025.



Robert Fields, Associate Justice

Cc: Bekki Craig, Tenancy Preservation Program
Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampshire , ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24SP5143

MEREDITH MANAGEMENT CO. ,

PLAINTIFF(S)

v.
MATOS ,

DEFENDANT(S)

ORDER

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

Defendant's motion to dismiss is denied.

Dismissal under Mass. Rule Civ. P. 12(b)(9) is proper when the same parties are involved in two actions and it is apparent from the face of the instant complaint that the operative facts relied on to support the instant action had transpired prior to the commencement of the first action. Here, operative facts in the instant action concern allegations that the tenant or persons under her control violated the lease by engaging in a series of disputes with a neighbor that led to a harassment prevention order entering against Defendant. The prior pending action is a nonpayment of rent case. Even if one or more of the acts leading to the filing of the instant action occurred prior to the service of a notice to quit or the filing of a summons and complaint in the nonpayment of rent case, Rule 12(b)(9) would not warrant dismissal as the operative facts in the two cases are different.

Moreover, the notice to quit in this case is unequivocal and unambiguous as to the reason for eviction. It is not defective on its face. If Defendant believes that a notice to quit served in the nonpayment of rent case confused her as to the landlord's intention to evict her for the lease violations cited in this case, she can raise it as a defense at trial.

SO ORDERED: _____


Jonathan J. Kane, First Justice

DATE: 2/25/25

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0132

GRACE LECLAIR SANNINO,
Plaintiff,

v.

JOHNNANNA MARTINEZ,
Defendant

ORDER FOR PRELIMINARY
INJUNCTION

This matter came before the court on February 24, 2025 for hearing on Plaintiff's motion for preliminary injunction. Plaintiff appeared with counsel. Defendant did not appear after in-hand service of notice. The subject premises consist of several rooms in the single-family home where Plaintiff also resides located at 14 Holyoke Street, Easthampton, Massachusetts (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 Indus. Group, Inc. v. Cheney*, 380 Mass. 609, 617 (1980).

Here, Defendant has not resided in the Premises for weeks. The condition of the Premises is deplorable and has attracted rodents and other vermin. Rodent feces is prevalent throughout the Premises. It is unclear if Defendant has abandoned the Premises or if she intends to return. The Premises are part of Plaintiff's home, and Plaintiff's health and welfare is at risk due to the likelihood that the infestation in the Premises will spread to the entire house. For the reasons set forth in the verified complaint and based on the evidence presented by Plaintiff, the court finds that the balance of harms weighs in favor of granting injunctive relief to Plaintiff.

Considering the court's findings, the following preliminary injunction shall enter:

1. Plaintiff may immediately remove all perishable items from the Premises.
2. Plaintiff may remove all garbage, debris and personal items (e.g. clothing and bedding) that are unsalvageable due to infestation or otherwise, provided that Plaintiff shall document (e.g. photograph) all items being removed.
3. Plaintiff shall safely secure and store all salvageable items in the Premises until the summary process trial, at which time the court will enter further orders regarding the stored items.
4. Plaintiff may sanitize and exterminate the Premises after they have been properly prepared for treatment.

5. Defendant may not return to reside in the Premises without further court order or consent of Plaintiff.

6. The legislative fee for injunctions shall be waived.

SO ORDERED.

DATE: February 25, 2025


Jonathan Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4141

BEACON RESIDENTIAL MANAGEMENT LP,

Plaintiff

v.

Carolyne M. DAVEY,

Defendant

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

This for-case summary process case came before the court on January 15, 2025 for a bench trial. Plaintiff appeared through counsel. Defendant appeared self-represented. Plaintiff seeks to recover possession of residential premises located at 414 Chestnut Street, Unit 1231, Springfield, Massachusetts (the "Premises") from Defendant. To sustain its burden of proof, Plaintiff must show that Defendant substantially violated one or more material terms of her rental agreement.

The parties stipulated that Defendant received the notice to quit dated August 28, 2024 terminating the tenancy as of October 1, 2024, and that she continues to reside in the Premises. The parties further agree that Defendant took possession in April 2018 and that she owes no rent. Her monthly rent share is \$314.00. Defendant did not file a written answer but was permitted to raise 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:

The lease prohibits Defendant from engaging unlawful activities or acts that disturb the rights or comfort of neighbors. Two of Defendant's neighbors testified credibly about the violent and abusive behavior exhibited by Defendant on the property. Both witnesses sought and were granted a G.L. c. 258E harassment prevention orders from the Springfield District Court, one in January 2024 and one in August 2024, and each order was subsequently extended for one year. Because of Defendant's conduct, these tenants have been placed in fear for their safety and have not been able to have the peaceful enjoyment of their tenancies. The court finds that Plaintiff proved by a preponderance of the evidence that Defendant has substantially violated material terms of the lease.

Defendant testified that she has suffered from [REDACTED] that have led to the behaviors described by the property manager and the other witnesses at trial.¹ Although the court accepts Defendant's explanation, it does not change the fact that her actions constitute substantial violations of material provisions of her lease and have had a significant adverse effect on the quiet enjoyment of other residents living at the property.

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

1. Judgment for possession, plus court costs, shall enter in favor of Plaintiff.

¹ There is no evidence that she made a request for reasonable accommodation from the landlord and did not make any such request at trial.

2. Execution (eviction order) shall issue by written application after expiration of the ten-day appeal period.

SO ORDERED.

February 26, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT

WESTERN DIVISION

Case No. 22-SP-2076

SARGEANT WEST II APARTMENTS,

Plaintiff,

v.

NAFTALI GUADALUPE,

Defendant.

ORDER

After hearing on February 20, 2025, on the landlord's motion for entry of judgment, the following order shall enter:

1. The tenant shared information with the assistance of his lawyer that presented a colorable claim that there may be a sufficient nexus between his [REDACTED] disabilities and his failures to comply with the payment terms of the Agreement in this matter and even, perhaps, his ability to pay his rent which lead to this non-payment of rent summary process action.

2. Accordingly, as a reasonable accommodation, the landlord's motion for entry of judgment is denied *without prejudice* to afford the tenant further opportunity to obtain the services he may need to meet the challenges of this court action and his lease terms.
3. The tenant is referred to the Tenancy Preservation Program (TPP). Its program director, Bekki Craig, joined the hearing.
4. There was a discussion on the record that if TPP determines that it can open this case it may explore with the tenant the use of a Representative Payee.
5. The tenant shall forthwith reapply to RAFT.
6. The parties shall work out a reasonable payment plan for any arrearage not covered by RAFT and if unable to reach agreement, may bring that issue for the court.
7. The tenant shall pay his rent for March 2025 by paying half on February 28, 2025, and half on March 14, 2025.
8. Attorney Dietz's motion to withdraw is allowed.
9. This matter shall be scheduled for a Status Hearing on **March 27, 2025, at 9:00 a.m.**

So entered this 26 day of February, 2025.



Robert Fields, Associate Justice

Cc: TPP
Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 25-CV-0095

MICHAEL J. VEILLETTE,

Plaintiff

v.

VALMORE SMITH,

Defendant

ORDER ON APPLICATION FOR
INJUNCTIVE RELIEF

This case came before the Court for hearing on February 26, 2025. Only Plaintiff appeared. The property in question is located at 903 Main Street, Unit 8, West Springfield, Massachusetts (the "Premises"). Plaintiff seeks an order that Defendant be barred from the property pending issuance of an execution in a summary process case.

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 has demonstrated it is entitled to a preliminary injunction based on the serious unsanitary condition of the Premises. The condition of his unit puts other residents of the property at substantial risk of harm to their health, safety and welfare. A bedbug infestation in the property cannot be abated without treatment to the Premises, which treatment cannot occur without a clean out.¹ Plaintiff has demonstrated a reasonable likelihood of prevailing on the merits of its claim that Defendant's conduct is a substantial violation of a material term of his lease.

Accordingly, a preliminary injunction shall enter against Mr. Ruiz. It is ordered that:

1. Defendant shall temporarily vacate the Premises following receipt of a 48-hour notice served by a constable or deputy sheriff. He may not return to reside in the unit without further court order or the consent of Plaintiff.
2. If Defendant fails to vacate voluntarily, Plaintiff may seek the assistance of the West Springfield Police Department, whose officers are authorized to assist Plaintiff in having Defendant removed from the Premises pursuant to this order.
3. Defendant may file a motion for relief from this injunction if he is able to effectuate a clean out of the Premises himself sufficient to allow for effective pest control treatments, including for bed bugs.

¹ A referral to the Tenancy Preservation Program is appropriate, but a representative of the program could not be located to participate in the hearing.

4. Plaintiff may immediately remove all perishable items from the Premises. It may remove all garbage and debris from the unit. It shall place all clothing and bedding in sealed bags, as well as other personal items that are not furniture or electronics. Furniture and electronics shall be left in place. All items bagged shall be securely stored for Defendant to retrieve and clean if he so chooses. Plaintiff shall document all steps with photographs or videos.

5. The fee for injunctions is hereby waived.

SO ORDERED.

February 26, 2025

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

cc: Court Reporter
Tenancy Preservation Program of Pioneer Valley

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

COMMONWEALTH OF MASSACHUSETTS,
CLPPP,

Plaintiff,

-v.-

DOCKET NO. 24CV00462

RICHARD BLAIR & NEW REZ, LLC D/B/A
SHELLPOINT MORTGAGE SERVICING,

Defendant.

ORDER

This matter came before the court on February 21, 2025 for a hearing on the plaintiff's second motion to appoint a receiver for the subject property. The plaintiff appeared through its attorney with Jennifer Schamel, assistant director of the Childhood Lead Poisoning Prevention Program (CLPPP). Defendant New Rez, LLC d/b/a Shellpoint Mortgage Servicing (New Rez) appeared through its attorney. Defendant Richard Blair did not appear. The plaintiff submitted an affidavit of Jennifer Schamel in support of its motion.

The subject property is located at 67 Montgomery Street in Westfield, Massachusetts. The plaintiff filed this case on June 18, 2024 against the then-owner, Richard Blair, to compel the deleading of the property and to request the appointment of a receiver if the owner did not delead. The property was occupied by a child under the age of 6. New Rez was named as a party in interest in the case as the mortgagee of the property.

On August 26, 2024 the plaintiff filed its first motion to appoint a receiver because defendant Blair had not complied with the court's June 27, 2024 order to delead. However, around this time New Rez foreclosed on the property and took title to the property following a foreclosure sale. The plaintiff issued a new order to correct to New Rez on October 16, 2024.

On October 18, 2024, the court issued an order by partial agreement making New Rez a party-defendant in this case because it was now the owner. The court's order acknowledged that New Rez had received the plaintiff's order to correct as of October 18, 2024. This established a set of deadlines for the defendant to comply with the lead paint laws. New Rez complied with the thirty-day deadline, but not the sixty-day deadline, i.e., to submit a deleading plan from a licensed deleading contractor. Although the deleading plan was due by December 21, 2024, New Rez still had not submitted it by the February 21, 2025 hearing.

The defendant filed a post-foreclosure eviction case against the occupants of the property in this court on November 21, 2024 (*New Rez LLC d/b/a Shellpoint Mortgage Servicing v Jessica C. (Blair) Butler, et al.*, No. 24SP04783).¹ A default judgment entered for possession and costs against the occupants on January 8, 2025. The execution issued on January 28, 2025 on the plaintiff's written request. New Rez' attorney reported to the court that the property was no longer occupied as of 1:00 p.m. on February 21, 2025 and that therefore there is no longer a child under six years of age living in the property. The court notes that there is nothing in the docket of the eviction case indicating that there was a levy on the execution. In fact, a review of the docket now shows that on February 25, 2025, co-counsel for New Rez filed an Affidavit of Lost Execution. The affidavit states, "3. *We are looking to levy on the execution.* However, the original Execution has been lost in transit from the Western Housing court to our office. 4. The plaintiff is seeking the issuance of a new Execution in this matter." {emphasis supplied}

In any event, defendant New Rez remains responsible to comply with the plaintiff's order to correct/delead. The plaintiff urges the court to appoint a receiver on the grounds that New Rez has failed to do so. The defendant's only explanation for why it did not submit a deleading plan was that it was waiting to see what happened at this hearing on the plaintiff's second motion to appoint a receiver. The court notes that the plaintiff did not file the motion until a month after New Rez missed the sixty-day deadline.

The court is concerned that New Rez has not complied with the deleading order and had not submitted a contract with the licensed deleader by the time of the hearing. There is nothing before the court to demonstrate that it does not have the ability to do so. It appears that it has just delayed in doing so. However, the court will grant defendant New Rez a thirty-day extension to

¹ The attorney for New Rez in this civil case brought by CLPPP is also co-counsel with another attorney in his firm for New Rez in the eviction case.

come into full compliance with the plaintiff's order to correct. The plaintiff's second motion to appoint a receiver is continued to the next available date after April 1, 2025. The Clerk's Office will send notice.

February 27, 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-0160

D&D CHICOPEE REALTY, LLC,

Plaintiff

v.

MANUEL LOVELY AND ANNETTTE PROVOST,

Defendants

ORDER FOR PRELIMINARY
INJUNCTION

This case came before the Court for hearing on February 27, 2025. Counsel for Plaintiff and Defendant Lovely appeared. Defendant Provost failed to appear after notice. Based on the facts set forth in Plaintiff's verified complaint and Mr. Lovely's testimony, the Court finds that Mr. Lovely is the only authorized occupant of the residential premises located at 265A College Street, Chicopee, Massachusetts (the "Premises"). No other person, including Ms. Provost, is authorized to reside in the Premises and Mr. Lovely has withdrawn any permission he previously gave to Ms. Provost to stay in the unit.

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).

Plaintiff has demonstrated a reasonable likelihood of prevailing on the merits of its claim that Ms. Provost has a legal right to occupy the Premises, and that her continued presence in the Premises constitutes a trespass.¹ Accordingly, a preliminary injunction shall enter against Defendant Annette Provost. It is ordered that:

1. Annette Provost (and any other person except for Mr. Lovely) shall vacate the Premises 48 hours after service of this order at the Premises by sheriff or constable.
2. If any occupant (other than Mr. Lovely) fails to vacate voluntarily, Plaintiff may seek the assistance of the Chicopee Police Department, whose officers are authorized to assist Plaintiff in having the unauthorized occupants removed from the Premises as trespasser pursuant to terms of this order.
3. After the unauthorized occupants are removed, Plaintiff is authorized to change the locks and provide a key only to Mr. Lovely.

SO ORDERED.

February 27, 2025

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

¹ This finding applies to any person occupying the Premises other than Mr. Lovely.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4174

MICHAEL CLEMENTE,

Plaintiff

v.

TIANNA LOPEZ,

Defendant

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

This summary process case came before the Court on January 2, 2025 for a bench trial. Plaintiff appeared through counsel. Defendant appeared self-represented.¹ Plaintiff seeks to recover possession of residential premises located at 54 Walnut Avenue, Apt. 2R, Chicopee, Massachusetts (the “Premises”) from Defendant based on alleged lease violations; namely, keeping a dog in the Premises, allowing unauthorized occupants to reside in the Premises, and failing to pay rent on time. To sustain his burden of proof, Plaintiff must show that Defendant substantially violated one or more material terms of her rental agreement.

The parties stipulated that Defendant received the notice to quit dated July 17, 2024 terminating the tenancy as of September 1, 2024, and that she has not vacated. Monthly rent is \$1,000.00 and the amount of \$4,550.00 remains unpaid. Based on the credible testimony and the other evidence presented at trial, the

¹ Karen White also appeared, asserting that she is an occupant of the premises.

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

The rental agreement is not explicit as to the identity of the occupants. It is signed only by Defendant, but her name and contact information is left blank in the initial paragraph as well as in the section identifying the tenant on the last page above signatures. The rental agreement prohibits assignments and subletting, but it only requires the tenant to notify the landlord in advance of a change in occupancy. See “Occupancy, Use, Assignment & Subletting” section. Accordingly, Plaintiff did not sustain its burden of proving that allowing her mother to move in was a material lease violation.

Regarding pets, the section of the rental agreement called “Pets” is left blank.² The rules and regulations for the Premises has a section entitled “Pet Cleaning” which requires the tenant to pay for carpet cleaning, which implies pet are permitted. Plaintiff testified that he allows cats, not dogs, but his testimony is not supported by the terms of the rental agreement. Therefore, Plaintiff cannot demonstrate that Defendant violated the rental agreement by keeping a dog.³

The rental ledger admitted into evidence shows that, after achieving a zero balance on May 1, 2024, Defendant made only partial payments, and those payments were not made on the 1st of the month. Plaintiff could have brought an eviction for nonpayment of rent but, instead, in this case lists as one of his bases for eviction her

² Plaintiff claims that he left this section blank because Defendant did not have a dog when she moved in; nonetheless, despite testifying that he refuses to allow dogs because of insurance concerns, the lease does not prohibit pets.

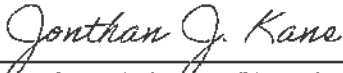
³ To the extent Plaintiff wishes to evict Defendant because of the behavior of the dog, because the rental agreement does not preclude dogs, he must pursue a different basis for termination of the tenancy.

late payments of rent. He did not establish that her late payments caused a hardship to him, nor did he explain why the late payment of rent was all of a sudden a material violation when the rent ledger shows a history of late payments for years. The Court infers that Plaintiff was not motivated to evict Defendant due to late payment of rent, but instead the other grounds listed in the notice.

Accordingly, based on the foregoing, and in light of governing law, the Court rules that Plaintiff failed to prove by a preponderance of the evidence his entitlement to possession based on substantial violations of material lease provisions and thus judgment shall enter in favor of Defendant on Plaintiff's claim for possession.

SO ORDERED.

February 28, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION

TERENCE GRIMES
Plaintiff,
v.
WILKENS ON KNAGGS, et al
Defendant.s

25 CV-141

ROBERT BERLICH
Plaintiff,
v.
WILKENS ON KNAGGS, et al
Defendant.s

25 CV-144

JONATHAN AVERY
Plaintiff,
v.
WILKINSON KNAGGS, et al
Defendants

25 CV 145

The three above-captioned matters were called for a consolidated hearing on February 25, 2025. After hearing, at which the plaintiffs all appeared self-represented and at which counsel for the City of Springfield Code Enforcement Department joined the hearing, the following order shall enter:

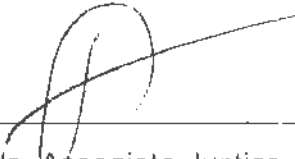
1. The plaintiff tenants all reported that the defendants have not complied with the court's orders and have not provided the tenants with any alternate accommodations (hotel or motel). They also reported candidly that they have not choice but to remain in the condemned premises.
2. The premises have been condemned by the City not only because they are an illegal rooming house but because they contain extremely unsafe conditions due to the illegal and unpermitted electrical, plumbing, and construction work performed therein in addition to missing smoke and carbon monoxide alarms/detectors.

3. Deputy Chief Housing Specialist Jacob Hogue reached out to the defendant owner of the premises, Wilkenson Knaggs, and when he finally reached him on February 24, 2025, Mr. Knaggs informed him that he would not appear in Court.
4. Counsel for the City reported that it is preparing to file for an emergency appointment of a Receiver and that it has already identified a Receiver: JJJ17, LLC from the Court's Receivership list.
5. The Court finds and so rules that this situation---a condemned dwelling with extremely unsafe conditions in which tenants are residing and a property owner not engaging in the Court process and ignoring the Court's orders---poses such a serious threat to life for the tenants and also to neighboring homes that it hereby makes an emergency appointment of JJJ17, LLC as Limited Receiver for the sole purpose of providing hotel rooms for each of the tenants until further order of the Court, pursuant to G.L. c.111, s.127I. Counsel for the Receiver, Katherine Higgins-Shea, joined the hearing and informed the Court that she would communicate with the Receiver immediately.
6. Attorney Gould anticipates filing and serving a complaint and emergency motion for appointment of a Receiver for these premises and will schedule same for March 7, 2025, and will reach out to the mortgagee's counsel to inform him of this Order.¹ A copy of this Order shall also be sent to said mortgagee's counsel by the Court.

¹ Mortgagee: Stage Point Fund, LLC, c/o Daniel Schneider, Esq., 122 Warren Avenue, Plymouth, MA 02360

7. These matters shall be scheduled for a Status Hearing on **March 7, 2025**, at **9:00 a.m.** The Receiver and the Mortgagee shall be added to the MassCourts docket system as "Interested Parties" for purposes of receiving all court notices and Orders and are requested to appear at the hearing noted above.

So entered this 28 day of February, 2025.



Robert Fields, Associate Justice

Cc: Katherine Higgins-Shea, Esq., Receiver's Counsel
Daniel Schneider, Esq., Mortgagee's Counsel
Amber Gould, Esq., City Law Department
Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-CV-0478

JESSE JACKSON,

Plaintiff

v.

THERESA WILLIAMS, PERSONAL REPRESENTATIVE
OF THE ESTATE OF CEDRIC D. WILLIAMS AND
DELVONTE NICHOLS,

Defendants

ORDER OF DISMISSAL

This case came before the court on February 28, 2025 on Plaintiff's motion to approval of real estate attachment. Plaintiff appeared through counsel. Defendants appeared self-represented. The First Amended Complaint filed in this matter alleges that Plaintiff was attacked by a dog owed by Defendant Nichols and kept at a property owned at the time by decedent Cedric D. Williams. Plaintiff alleges that he suffered bodily injury as a result of dog bites.

Upon reviewing the pleadings in this matter, it became apparent that the facts of this case raise an issue of subject matter jurisdiction. "Whenever a problem of subject matter jurisdiction becomes apparent to a court, the court has "both the power and the obligation" to resolve it, "regardless [of] whether the issue is raised by the parties." *Rental Property Management Svcs. v. Hatcher*, 479 Mass. 542, 547 (2018), quoting *Nature Church v. Assessors of Belchertown*, 384 Mass. 811, 812 (1981). See Mass. R. Civ. P. 12 (h) (3) (Whenever it appears by suggestion of a party or

otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action). “Subject matter jurisdiction cannot be conferred by consent, conduct or waiver.” *Id.*, quoting *Litton Business Sys., Inc. v. Commissioner of Revenue*, 383 Mass. 619, 622 (1981).¹

The Housing Court is a court of limited jurisdiction. See G.L. c. 185C, § 3.

Specifically, the court has:

jurisdiction under the provisions of common law and of equity and any other general or special law, ordinance, by-law, rule or regulation as is concerned directly or indirectly with the health, safety, or welfare, of any occupant of any place used, or intended for use, as a place of human habitation and the possession, condition, or use of any particular housing accommodations or household goods or services situated therein or furnished in connection there with or the use of any real property and activities conducted there on as such use affects the health, welfare and safety of any resident, occupant, user or member of the general public and which is subject to regulation by local cities and towns under the state building code, state specialized codes, state sanitary code, and other applicable statutes and ordinances.

G.L. c. 185C, § 3.

Taking the allegations of the first amended complaint as true, the dog in question was kept at a home “nearby” Plaintiff’s home and the alleged attack happened on a public way.² The parties had no landlord-tenant or occupancy relationship and they did not share access to the property where the alleged attack occurred. The case was not brought to protect the health, welfare or safety of a resident or occupant of a place used for human habitation, nor do the issues involved in this case affect the public at large. The case was filed to recover damages suffered

¹ The court notes that the defendants, who are self-represented, did not file a motion to dismiss based on lack of subject matter jurisdiction.

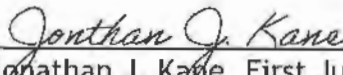
² Even if the attack occurred in Mr. Williams’ yard, it does not change the analysis.

by a pedestrian attacked by a dog as the pedestrian walked down the street. The court concludes that the facts alleged in this case are not within the subject matter jurisdiction of this court.

Accordingly, the case is hereby DISMISSED without prejudice.

SO ORDERED.

DATE: February 28, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

Hampden, ss:

HOUSING COURT DEPARTMENT
WESTERN DIVISION
Case No. 25-SP-154

LUIS QUIZHPI,

Plaintiff,

v.

SHANNON CAPORALE,

Defendant.

ORDER OF DISMISSAL

After hearing on February 26, 2025, at which both parties appeared self-represented, the following order shall enter:

1. **Motion to Dismiss/Summary Judgment:** The tenant moves this court to dismiss this matter due to the landlord's failure to timely serve the tenant with the Notice to Quit.
2. More specifically, the tenant asserts that the Notice to Quit was not served and received until January 5, 2025, even though it is dated November 30,


2024, making that notice insufficient to terminate the tenancy prior to the filing of this summary process action (filed on January 15, 2025).

3. G.L. c.186 s.12 states that "(e)states at will may be determined by either party by...notice in writing for that purpose given to the other party." Emphasis added). The law is settled that the burden is on the landlord to show that the tenant received the notice to quit. *Cannors v. Wick*, 317 Mass. 628, 631 (1945). If the notice to quit is served by a constable, then the constable's return is prima facie evidence of the facts concerning service stated in the return. G.L. c. 41 sec. 94; *Ryan v. Sylvester*, 358 Mass. 18, 148, 149 (1970). In *Ryan*, the SJC held that the "mere delivery by the constable at the tenant's home...was not equivalent to the tenant having notice, that is, there was no presumptive evidence that the tenant received notice." *Id.*
4. There was no constable service in this matter and the court does not credit the landlord's testimony that he delivered the notice on November 13, 2024. The Court is persuaded by the testimony of the parties that landlord made a special trip to the premises to introduce himself as the new owner on November 23, 2024, that he did not drive out the week beforehand to tape a notice to quit to the tenant's door, and that he did not deliver the notice to quit (to the tenant's door) until January 5, 2025.
5. The landlord did not satisfy the court as to why he would deliver a notice, as he alleges, on November 13, 2024, but have it dated November 30, 2024. Additionally, the landlord included a statement that inferred that he started his

summary process action based on the former landlord's termination notice to the tenant given prior to his purchasing of the premises in October 2024.

6. Under the facts of this action, the Court finds that the landlord failed to meet burden of showing that the tenant received the notice to quit prior to January 5, 2025.
7. Accordingly, the Court shall dismiss this action. ¹

So entered this 27 day of February, 2025.



Robert Fields, Associate Justice

Cc: Court Reporter

¹ The landlord's motion for access for repairs was also heard but given the dismissal of this case no order regarding access shall issue at this time.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-CV-0937

WARE HOUSING AUTHORITY,

Plaintiffs

v.

BEATRIZ ROMAN,

Defendant

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

The parties appeared before the court on February 18, 2025 for an evidentiary hearing pursuant to G.L. c. 139, § 19. Plaintiff seeks to recover possession of a dwelling unit located at 12B Valley View, Ware, Massachusetts (the “Premises”) from Defendant.¹ Plaintiff appeared through counsel. Defendant appeared self-represented.

In relevant part, G.L. c. 139, § 19 recites:

[I]f a tenant or household member of a housing authority ... commits an act or acts which would constitute a crime involving the use or threatened use of force or violence against the person of an employee of the housing authority ... such use or conduct shall, at the election of the lessor or owner, annul and make void the lease or other title under which such tenant or occupant holds possession and, without any act of the lessor or owner shall cause the right of possession to revert and vest in him, and the lessor or owner may seek an order requiring the tenant to vacate the premises or may avail himself of the remedy provided in

¹ Although the Premises are in Hampshire County, the parties agreed to appear in the Springfield session for this hearing.

chapter two hundred and thirty-nine. If the lessor or owner is entitled to relief pursuant to this section, such lessor or owner may seek declaratory judgment of his rights hereunder in the district, superior or housing court, which may grant appropriate equitable relief, including both preliminary and permanent injunctions, including a preliminary injunction granting the lessor or owner possession of the premises, and in connection therewith may order issuance of an execution for possession of any such premises to be levied upon forthwith. No such injunction shall be issued except after notice has been given to the tenant and a hearing has been held with opportunity for the tenant to confront and cross-examine witnesses and to present any legal or equitable defense. A housing authority ... shall not avail itself of the remedies contained herein except after notice, hearing, and decision on the merits by the court.

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

Defendant is a tenant of the Ware Housing Authority pursuant to a written lease.² Over the past year, Defendant engaged in multiple willful and malicious acts of hostility toward Plaintiff's executive director, Linda Hanssen. Defendant has thrown dog feces in Ms. Hanssen's direction, threatened to physically assault her, hurled expletives at her and made intimidating comments such as "do your [expletive] job or I'll do it for you" and "watch your back." [REDACTED]

[REDACTED]. The evidence shows that Defendant's behavior has placed Ms. Hanssen in fear of her safety and has created a substantial risk of irreparable harm to her for simply doing her job. Defendant's actions have also placed the safety and welfare of other residents and members of the public at risk.

² Although the lease includes requirements that Plaintiff must follow to terminate the tenancy, including specific notice periods and administrative remedies, it is not clear that these provisions apply in a case brought under G.L. c. 139, § 19 and, in any event, Defendant did not assert any such defenses. The court considers these potential defenses to be waived.

On November 15, 2024, Ms. Hanssen obtained a c. 258E harassment prevention order against Defendant from the Eastern Hampshire District Court without advance notice to Defendant. A two-party hearing was held on November 19, 2024 at which the c. 258E order was extended for one year to November 18, 2025. Defendant was ordered not to abuse or harass Ms. Hanssen by engaging in any willful and malicious conduct aimed at her and intended to cause fear, intimidation or abuse. She was also ordered to stay at least ten yards away from Ms. Hanssen.

Also on November 19, 2025, Plaintiff obtained an order for injunctive relief from this court following an evidentiary hearing. The court ordered that Defendant, among other things, not communicate with Ms. Hanssen except in the case of a bona fide emergency, not enter the common room adjacent to the office except for the purpose of doing laundry, and to comply with the terms of the c. 258E order.

Defendant has substantially violated the court orders from both District Court and Housing Court. Defendant admitted that, since the 258E order issued, she has repeatedly used the laundry room to dispose of trash rather than use the dumpster. The court draws an inference from the evidence that Defendant repeatedly entered the laundry room as an attempt to intimidate Ms. Hanssen and place her in fear. Likewise, Defendant has parked her car directly in front of Ms. Hanssen's office window, despite have an assigned parking spot in front of the Premises across the parking lot and stared at Ms. Hanssen through her office window. Ms. Hanssen found dog feces in her mailbox the day of trial, which the court infers was an act of intimidation by Defendant.³

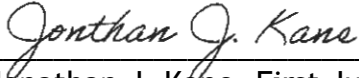
³ Defendant issued blanket denials of all misconduct. The court finds her testimony to lack credibility.

Based on all the evidence and the reasonable inferences drawn therefrom, the court finds that Plaintiff proved by a preponderance of the evidence that Defendant engaged in acts that would constitute a crime involving the use or threatened use of force or violence against an employee of a housing authority on the grounds of a public housing project. Accordingly, it is ORDERED that:

1. A declaratory judgment shall enter in favor of Plaintiff granting it the right to annul and making void the lease with Defendant pursuant to G.L. c. 139, § 19.
2. A preliminary and permanent injunction granting Plaintiff possession of the Premises shall issue, and an execution for possession may issue to be levied upon forthwith.

SO ORDERED.

February 28, 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-4691

EURIDES BATISTA, ET AL.,

Plaintiffs

v.

SHANNA KAMIENSKI, ET AL.

Defendants

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR JUDGMENT

This summary process case came before the Court for a bench trial on January 27, 2025. Plaintiffs appeared through counsel; Defendant Kamienski appeared self-represented. Defendant Ostrander did not appear.

The parties stipulated to Plaintiffs' prima facie case for possession and unpaid rent in the amount of \$8,500.00. Defendant did not file an answer and has no pending application for rental assistance. She testified that she has obtained a restraining order against Defendant Ostrander (her husband). She concedes that she cannot afford the rent and is working with [REDACTED] advocates for replacement housing.

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

1. Judgment shall enter for Plaintiffs for possession and \$8,500.00 in damages, plus court costs.

2. Execution (eviction order) will issue by application after expiration of the 10-day appeal period.

SO ORDERED.

March 1, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Franklin, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

HOMESAVERS COUNCIL OF GREENFIELD
GARDENS, INC.,

Plaintiff,

-v.-

DOCKET NO. 24SP02845

XIOMARA MORALES,

Defendant.

ORDER

This matter came before the court on February 28, 2025 for a hearing on the plaintiff's motion for entry of judgment. The plaintiff appeared through its attorney, together with the property manager. The defendant appeared with her attorney, together with her caseworker from Community Support Options (CSO), Ms. Coughlin.

In this cause-based eviction case, the plaintiff-landlord seeks possession of the subject rental premises based on allegations that the defendant-tenant breached the lease. The plaintiff also alleges nonpayment of the tenant's portion of the rent which is subsidized through the project-based Section 8 program. The parties entered into the most recent interim Agreement to try to resolve this case on January 10, 2025. The plaintiff brought the motion now before the court on the grounds that the defendant did not comply with material terms of that Agreement.

The parties addressed the specific issues in dispute:

1. Although it was not completed by the January 31, 2025 deadline in the Agreement, the parties agree that the defendant's **pool** has now been removed from the yard.
2. The defendant reported that she has not submitted her request for a **reasonable accommodation to have a second dog** because she is waiting for documentation from her medical provider. She requested the documentation the week before the hearing.

3. In their January 10 Agreement, the parties agreed that the defendant had completed her 2024 annual **recertification** and that her portion of the rent/use and occupancy is \$652 effective October 1, 2024.
4. The defendant's arrearage through February 2025 is \$13,131.16 in unpaid **rent/use and occupancy** and \$319.41 costs. This amount includes a credit for \$7,000 in RAFT financial assistance paid on the defendant's behalf on February 20, 2025. The arrearage includes months for which the defendant had unreported income and the rent was set at the market rate. The defendant reported that she intends to submit a request for a **reasonable accommodation seeking a retroactive readjustment** for such months. Again, she is waiting for documentation from her medical provider.
5. The defendant had not paid the \$400 toward her portion of the January **use and occupancy** of \$652 which she had agreed to pay by January 31, 2025, but she paid it at the hearing. This amount will be credited toward the arrearage. She had not paid anything toward her portion of the February use and occupancy.

Ms. Coughlin explained that she has been working with Ms. Morales "on and off" for about two years, but that she has been working with her more intensely since January 2025 when she became aware of the serious nature of this eviction case. During this recent time, they have made what she describes as "substantial progress" to help Ms. Morales to come into compliance with the terms of her lease. She agreed to continue working with the defendant on issues such as budgeting, insuring payment of her ongoing use and occupancy, and repayment of the arrearage once the defendant's intended reasonable accommodation request is resolved.

Order

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

1. The plaintiff's motion for entry of judgment is continued to **March 28, 2025 at 9:00 a.m.**
2. With the assistance of her attorney and her CSO caseworker, the defendant will complete her reasonable accommodation requests promptly and completely.
 - a. The plaintiff will respond to any reasonable accommodation requests it receives from the defendant promptly.
 - b. The parties will engage in the interactive dialog process, pursuant to *Boston Hous. Auth. v. Bridgewaters*, 452 Mass. 833 (2009) and *Andover Hous. Auth. v. Shkolnik*, 443 Mass. 300 (2005).

3. The defendant will pay her portion of the March use and occupancy (\$652 or any duly adjusted amount) no later than March 10, 2025.
4. The defendant will continue to pay her portion of the rent/use and occupancy each month as it becomes due.
5. The terms of the January 10, 2025 Agreement remain in full force and effect except to the extent they are changed by the terms of this order. This includes but is not limited to the defendant's obligation to report relevant changes in her household income as required by the subsidy program.

March 3, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

JARVIS HEIGHTS APARTMENTS ASSOCIATES,

Plaintiff,

-v.-

DOCKET NO. 23SP02498

MELISSA ACEVEDO,

Defendant.

ORDER

This matter came before the court on February 28, 2025 for a hearing on the plaintiff's motion for an amended judgment and reissuance of the execution. The plaintiff appeared through its attorney. The defendant appeared and was self-represented. Leonor Pena of Wayfinders joined the hearing to report on RAFT.

This eviction case is based on nonpayment of the tenant's portion of the subsidized rent. The tenancy is subsidized through the project-based Section 8 program. The case has a long history since it was filed June 5, 2023 as the parties tried many times to resolve the nonpayment issue. What is relevant to the instant motion is the second and prevailing judgment which entered on January 16, 2024 for possession and \$1,904.01 in unpaid rent/use and occupancy and \$201.54 costs. The plaintiff served a forty-eight hour notice to use the execution on that judgment to move the defendant out of the apartment. The defendant filed a motion to stop the move-out.¹ On April 10, 2024 the parties entered into an Agreement to resolve the case. By its terms, the plaintiff stopped the move-out. The parties agreed that the defendant owed \$2,003.02 in unpaid rent/use and occupancy, \$201.54 in costs, and \$700 for the cancellation fee for the

¹ This was the second move-out which was stopped by Agreement following the defendant's motion to stop the move-out.

stopped move-out. The defendant agreed to pay her portion of the Section 8 rent/use and occupancy (\$539) and \$100 toward the arrearage by the fifth of each month beginning in May 2024. The parties further agreed that the execution would be stayed during the pendency of the Agreement, thereby tolling the time period pursuant to G.L. c. 235 §23. The case would be dismissed when the arrearage reached zero, but if the defendant did not make the payments as she agreed, the plaintiff could file a motion to issue a new execution.

Ms. Acevedo made the May payments as she agreed, but she has not paid anything since then. The arrearage is now \$6,034.02 through February 2025 with \$201.54 costs. As of February 1, 2025, her portion of the Section 8 rent/use and occupancy was reduced to \$119.

Leonor Pena of Wayfinders confirmed that the defendant's application for RAFT financial assistance timed out on February 26, 2025 because the landlord documentation was missing. The landlord had not received any notice of the RAFT application because the email in the Wayfinders system was incorrect. There was no RAFT application pending at the time of the hearing. Ms. Morales reported that she understands that because her tenancy is subsidized, she could be eligible for six months of her portion of the rent and that she would have to document for Wayfinders that there was a hardship/good cause for her failure to pay her portion of the subsidized rent.² If a RAFT application were to be approved, the parties would have to agree to a payment plan for the balance that would remain after RAFT paid.

The defendant reported that she has stopped working because of transportation issues. She now receives DTA benefits. She offered to pay \$300 now and to reapply for RAFT financial assistance. A family member may be able to help her with the arrearage.

While it is clear that the defendant is in substantial violation of material terms of the April 10, 2024 Agreement because she has not paid her portion of the Section 8 rent or anything toward the arrearage for nine months, the court will continue the plaintiff's motion for a brief time to give the defendant another opportunity to apply for RAFT financial assistance and to address the underlying issue of nonpayment. In granting this continuance, the court notes that the plaintiff did not take any action in response to the violation of the April 10, 2024 Agreement until January 28, 2025, almost eight months after the violation of the latest Agreement began.

² An earlier RAFT application in October 2023 was denied because the tenant did not submit sufficient documentation of such a hardship.

Order

After hearing, the following orders will enter:

1. As stated at the hearing, the defendant will pay \$300 to the plaintiff immediately. This will be applied first to her portion of the March use and occupancy (\$119) and the balance to the arrearage.
2. As stated at the hearing, the defendant will re-apply for RAFT financial assistance immediately.
 - a. The defendant will submit all documentation required by Wayfinders, including the correct email address for the plaintiff.
 - b. The plaintiff will submit all documentation required by Wayfinders promptly upon request.
 - c. The plaintiff will include costs and cancellation fees, if any remain to be paid, on the ledger.
3. The plaintiff's motion for an amended judgment and reissuance of the execution is continued for further hearing in thirty days. The Clerk's Office will send notice of the continued hearing date.
4. Pending further order of the court, the defendant will continue to pay her portion of the Section 8 rent by the fifth of each month, as set based on her household income.

March 3, 2025

Fairlie A. Dalton

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Franklin, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

JESSICA MARTIN,

Plaintiff,

-v.-

DOCKET NO. 25CV00158

JORDAN LARUSSO AGENT FOR KING
PINE APARTMENTS,

Defendant.

ORDER

This matter came before the court on February 28, 2025 for a hearing on the plaintiff's request for an emergency order. The defendant filed a motion to dismiss. The plaintiff appeared and is self-represented. Lisa Bardsley testified on her behalf. The defendant appeared with her attorney.

The plaintiff is a tenant at King Pine Apartments, a 234-unit development located in Orange, Massachusetts. Jordan LaRusso is the property manager employed by Schochet Companies, AMO. Pursuant to G.L. c. 266 §120, the owner served a no trespass order dated February 18, 2025 on Lisa Bardsley, a former tenant at the development. (*See, King Pine RIII Partners LP v. Lisa Bardsley, et al. No. 23SP04693*) Ms. Bardsley is the special education advocate for the plaintiff's minor child. She has been assisting the family to find a C-school for the minor child since late September/early October 2024. In that capacity she meets with the plaintiff and provides transportation.

Because of the no trespass order for the development Ms. Bardsley cannot meet with the plaintiff at her apartment, although she agreed that she could meet with her off-site. Ms. Martin reported that she does not have transportation to meet off-site and that it is difficult for her to

walk through the development for Ms. Bardsley to pick her up on the street due to her medical condition.

The plaintiff now asks the court to “lift” the no trespass order against Ms. Bardsley. She has not made a reasonable accommodation request for any modification regarding the effects of the no trespass order on the plaintiff. Although she called Ms. Bardsley as a witness, Ms. Bardsley argued strenuously that there should not be a no trespass order against her at all. There was no evidence before the court that she has taken any independent action to “lift” the no trespass order herself.

Finding and Order

After hearing, the court finds that the plaintiff has not demonstrated a substantial likelihood of success on the merits of what amounts at this point to be an action on behalf of Ms. Bardsley. The request for an emergency order is **DENIED** and this case is **DISMISSED**. Ms. Martin is not without remedy. She may make a request to her landlord for a reasonable accommodation as she sees fit. The parties will engage in the interactive dialog process in good faith, pursuant to *Boston Hous. Auth. v. Bridgewater*, 452 Mass. 833 (2009) and *Andover Hous. Auth. v. Shkolnik*, 443 Mass. 300 (2005) if such a request is made.

March 3, 2025

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

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4548

SPRING MEADOW ASSOCIATION OF
RESPONSIBLE TENANTS, INC.,

Plaintiffs

v.

ZINNIA PEREZ,

Defendants

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

This summary process case came before the court for a bench trial on January 30, 2025. Plaintiff appeared through counsel; Defendant appeared self-represented.

The parties agree on most of the relevant facts. The sole issue in dispute in this case is whether Defendant has a zero balance. Plaintiff contends that she owes \$197.05. 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:

The parties appeared in court for a First Tier Court Event ("FTCE") on December 27, 2024. Just prior to the FTCE, Defendant made a payment of \$1,029.00, leaving a balance due of \$234.05 including unpaid court costs. When Plaintiff's bookkeeper (who was not in court that day) informed counsel of the payment by email, he erroneously reported that Defendant paid \$1,229.00, leaving a balance owed of \$34.05. A trial was scheduled for trial on January 24, 2025. Defendant was

told that the case would be dismissed if she had a zero balance prior to the date of trial.

Prior to trial, Defendant paid \$1,065.00, believing she had a zero balance. Because of the typographical error in the bookkeeper's email to counsel, however, her rent ledger showed a balance of \$197.05. Defendant refused to pay, claiming that she paid the amount she was told to pay at the FTCE, and that Plaintiff should be forced to write off the balance. The Court disagrees.¹ The evidence clearly shows, and Defendant admits, that she paid \$1,029.00 and not \$1,229.00 prior to the FTCE in December 2024. The fact that the bookkeeper made a typographical error when reporting the payment to the lawyer does not constitute a waiver of rent owed. Simply put, based on the actual payments Defendant made, she owed \$197.05 as of the date of trial.

Accordingly, the court enters the following:

1. During the month of February 2025, in addition to rent, Defendant shall pay \$197.05. If payment is made, Plaintiff shall file a stipulation of dismissal.
2. If Defendant does not make the required payments within the month of February 2025, Defendant may file a motion for entry of judgment for possession and any outstanding monies owed.

SO ORDERED.

March 3, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

¹ The Court notes that the parties did not enter into a written agreement at the FTCE specifying the amount Defendant would have to pay in order for the case to be dismissed. Had such a written agreement been filed, and if no motion to amend had been filed, the court's conclusion might be different.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

Hampden, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION

THE QUEEN LLC,

Plaintiff,

-v.-

DOCKET NO. 24SP02847

TINASHIA ENSLEY,

Defendant.

ORDER

This matter came before the court on February 28, 2025 for a hearing on the defendant's motion to remove the default judgment. The plaintiff appeared through its attorney. The defendant appeared and was self-represented. Janis Luna of Wayfinders joined the hearing to report on RAFT.

This a no-fault eviction case which was filed on July 22, 2024. The parties entered into an Agreement on September 17, 2024 in which the defendant agreed to move out of the subject rental premises by December 31, 2024. In exchange for that move-out date, the plaintiff waived the unpaid rent/use and occupancy through September 2024 (\$5,600 at \$800/month). The defendant filed a motion to amend the Agreement to stay the execution further. The motion was denied after hearing on December 27, 2024. On January 7, 2025 the plaintiff filed a motion for entry of judgment on the grounds that the defendant had not moved as she agreed to do. The defendant did not appear for the hearing on that motion on February 3, 2025 and a judge of this court allowed the plaintiff's motion. Judgment entered on February 4, 2025 for possession and \$800 in unpaid rent/use and occupancy for January with costs. The plaintiff has not applied for the execution to date.

The plaintiff now assents to the defendant's motion to vacate the February 4 judgment. The hearing proceeded on the merits of the plaintiff's motion to enter judgment. The defendant still has not moved out of the premises. She reported that her applications for new apartments

have been denied. Her application for Emergency Assistance shelter was denied. She appealed the denial of shelter. She had a hearing on January 30, 2025, but she has not received a decision to date.

Janis Luna of Wayfinders joined the hearing and confirmed that on January 21, 2025 Ms. Ensley was approved for RAFT financial assistance to move to a new apartment. This approval will expire on April 21, 2025 if she does not move by then. There is no RAFT application pending because it was approved. G.L. c. 239 §15 does not apply in this no fault eviction case.

The defendant paid \$800 for January use and occupancy on February 14, 2025 and \$1,600 for February and March use and occupancy on February 26, 2025. The hearing was recessed for the plaintiff's attorney to confirm with his client that these funds had been received.

The plaintiff argued that judgment should enter because the defendant did not move out of the premises by December 31, 2024, as she agreed to do in the September 17, 2024 Agreement. The court agrees. The court already denied a further extension in its December 27, 2024 order. However, the plaintiff offered to agree to a stay of the execution through March 31, 2025.

Findings and Orders

After hearing, the following orders will enter:

1. The defendant's motion to vacate the February 4, 2025 judgment is **ALLOWED** by assent.
2. The February 4, 2025 judgment is vacated.
3. The court finds that the defendant is in substantial breach of a material term of the September 17, 2024 Agreement (paragraph 5) because she did not move out of the premises by December 31, 2024
4. Judgment will enter for the plaintiff for possession and costs.
5. As agreed by the parties, the court finds that the defendant has paid the \$800/month use and occupancy for January through March 2025.
6. Execution is stayed through March 31, 2025 only.
7. This stay of the execution is ordered pursuant to G.L. c. 235 §23, thereby tolling the statutory time period.

March 3, 2025

Fairlie A. Dalton _____

Fairlie A. Dalton, J. (Rec.)

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPDEN, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-3570

MARK WHITE,

Plaintiff

v.

BRIANNE BOHDANOWICZ,¹

Defendant

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

This summary process case came before the court on January 2, 2025 for a bench trial. Plaintiff (the landlord) appeared through counsel. Defendant (the tenant) appeared self-represented.² Plaintiff seeks to recover possession of residential premises located at 13 Nonotuck Avenue, Unit 1, Chicopee, Massachusetts (the “Premises”) from Defendant based on nonpayment of rent.

Prior to the start of trial, without objection, the court allowed Defendant’s motion to file a late answer and Plaintiff’s motion to amend the complaint to conform to the evidence; namely, that the agreed-upon monthly rent is \$1,495.00. Further, Defendant stipulated that she received the 14-day notice to quit dated August 6, 2024 and that she has not vacated. The parties agree that the balance of rent arrears through the date of trial is \$5,980.00.

¹ The Clerk’s office is requested to correct the spelling of Defendant’s last name to match the caption of this order.

² Defendant consulted with Community Legal Aid (CLA) but was not sure if CLA would assist her at trial. The court took a brief recess to allow Defendant to inquire, but apparently CLA declined to file a limited assistance representation appearance for 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:

Defendant asserts various conditions of disrepair, including windows that do not latch properly and therefore allow cold air to enter the Premises, broken glass and debris in the yard not belonging to her, and common area electricity connected to her electrical meter. Defendant was unable to show, however, that she provided notice of these matters to the landlord prior to being in arrears with her rent. Accordingly, the conditions about which Defendant complains cannot be defenses to possession. See G.L. c. 239, § 8A (the landlord must have notice of such conditions before the tenant was in arrears in her rent).

Despite not being defenses to possession, the court examines whether the conditions constitute a breach of the warranty of habitability or violation of the covenant of quiet enjoyment. The credible evidence presented at trial was insufficient to show that the windows or yard debris were substantial violations of the State sanitary code or significant defects that affected her health, safety and well-being. The court finds no breach of warranty. See *McAllister v Boston Housing Authority*, 429 Mass. 300, 305 (1999) (not every breach of the State Sanitary Code supports a warranty of habitability claim).

Defendant did, however, testify credibly that the common area lights and outlets are connected to her electrical meter. Pursuant to the State sanitary code, 105 Code Mass. Regs. 410.200(A), the landlord must provide electricity unless it “metered through a meter which serves only the dwelling unit or other area under the

exclusive use of an occupant of that dwelling unit ... [and a] written rental agreement provides for payment by the occupant.” No written rental agreement was offered into evidence, and Plaintiff did not show that Defendant agreed in writing to pay for common area electricity, as is required under the State sanitary code in two- and three-family residential properties.³ Although she did not have documentary evidence of cross metering, the tenant’s testimony was credible and uncontroverted.

The property manager claimed no knowledge of cross-metering, he testified that he manages 600 units and relatively recently began managing this Premises. Defendant testified credibly that, in response to her concerns about paying for electricity used on the exterior of the home, the landlord installed solar lighting, implying that it knew the outlets were or might be connected to her meter.

This issue in this case is not simply that there was no written agreement of the tenant to pay for electricity. Here, she demonstrated by a preponderance of the evidence that she paid for electricity she did not use. For example, she testified credibly that contractors replacing the roof used her electricity by plugging into an exterior outlet. Use of Defendant’s electricity without her consent had a negative impact on her use and enjoyment of the Premises, as it caused her financial stress and difficulty paying rent.

³ 105 Code Mass. Reg. 310(F) recites that, in residences containing two or three dwelling units, “light fixtures used to illuminate a common hallway, passageway, foyer and/or stairway may be wired to the electric service serving an adjacent dwelling unit, provided that if the occupant of such dwelling unit is responsible for paying for the electric service to such dwelling unit:

(1) A written rental agreement shall state the occupant is responsible for paying for light in the common hallway, passageway, foyer, and/or stairway; and
(2) Any requirement for an occupant to pay for lights in common areas shall begin only upon commencement of a new tenancy.”


Defendant did not show actual damages, and the court cannot guess at the amount of electricity she paid for but did not consume. The cross-metered electricity did impair the character and value of the leasehold, however, thereby constituting a serious interference with the tenancy. See *Doe v. New Bedford Housing Auth.*, 417 Mass. 273, 285 (1994). Pursuant to G.L. c. 186, § 14, Defendant is entitled to statutory damages in the amount of three months' rent. Given that monthly rent is \$1,495.00, statutory damages are \$4,486.00.

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

1. After offsetting the damages to which Defendant is entitled against the unpaid rent through January 2025, judgment shall enter in favor of Plaintiff for possession and damages in the amount of \$1,495.00.
2. Execution shall issue by written application after expiration of the ten-day appeal period.⁴
3. Plaintiff shall have thirty (30) days to repair any drafty windows, clean up any debris or trash left by contractors or neighbors, and install an owner's electrical meter so that none of the tenants in the building are paying for common area electricity service.

SO ORDERED.

March 3, 2025



Jonathan J. Kane, First Justice

cc: Court Reporter

⁴ Plaintiff shall not request the execution if at that time Defendant has a pending application for rental assistance.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-4912

BERMATT PROPERTIES,

Plaintiff

v.

JUANITA WRIGHT,

Defendant

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

This summary process case brought for nonpayment of rent came before the court for a bench trial on February 24, 2025. Plaintiff (the landlord) appeared through counsel and Defendant (the tenant) appeared self-represented. The landlord seeks to recover possession of residential premises located at 115 Northampton Street, Unit C, Easthampton, Massachusetts (the "Premises") from the tenant.

Prior to the start of trial, the parties stipulated to the landlord's case for possession and unpaid rent in the amount of \$4,500.00. Defendant did not file an answer and raised no legal defenses at trial. She is not eligible for rental assistance through the RAFT program until April 2025 (at which time she will be eligible for a maximum of \$2,700.00

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

1. Judgment shall enter in favor of Plaintiff for possession and damages in the amount of \$4,500.00, plus court costs.
2. Execution (eviction order) shall issue by written application following the

ten-day appeal period.

SO ORDERED.

March 4, 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-4279

GENEVIEVE CONSTRUCTION DEVELOPMENT
GROUP, INC.,

Plaintiff

v.

WANDA PIERCE AND CHRISTOPHER PIZARRO,

Defendant

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

This summary process case came before the court on January 15, 2025 for a bench trial. Plaintiff appeared through counsel. Defendant Pierce appeared self-represented. Defendant Pizarro did not appear. Plaintiff seeks to recover possession of a single-family home located at 150 Cloran Street, Springfield, Massachusetts (the "Premises") from Defendants.

Plaintiff purchased the Premises after foreclosure. Prior to the start of trial, the parties stipulated to Plaintiff's case for possession. Defendants did not file an answer and Defendant Pierce raised no defenses at trial; instead, Defendant Pierce simply asked for a 90-day stay of execution.

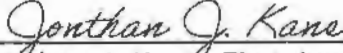
In light of the foregoing, the following order shall enter:

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

3. If Defendants seek a stay of execution, they may file a motion.

SO ORDERED.

March 4, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

HAMPSHIRE, ss.

HOUSING COURT DEPARTMENT
WESTERN DIVISION
DOCKET NO. 24-SP-5130

MARLENE A. CHRISTY REVOCABLE TRUST,

Plaintiff

v.

CASSIDY L. CLARKE,

Defendant

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

This summary process case brought for no cause came before the court for a bench trial on February 24, 2025. Plaintiff (the landlord) appeared through counsel and Defendant (the tenant) appeared self-represented. The landlord seeks to recover possession of residential premises located at 117 Main Street, Unit 2L, South Hadley, Massachusetts (the "Premises") from the tenant.

Prior to the start of trial, the parties stipulated to the landlord's case for possession. Plaintiff is not seeking unpaid rent or use and occupancy. Defendant did not file an answer and raised no legal defenses at trial. She simply seeks additional time to move.

The court has discretion in a no cause eviction case to grant a stay on judgment and execution. See G.L. c. 239, § 9. The Court finds that (i) the Premises are used for dwelling purposes, (ii) Defendant has been unable to secure suitable housing elsewhere in a neighborhood similar to that in which the Premises are located, (iii)

Defendant is using due and reasonable effort to secure other housing, and (iv) Defendant's 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 sufficient facts to warrant a stay, conditioned upon Defendant paying Plaintiff for use and occupation for the duration of the stay. See G.L. c. 239, § 11.

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:

1. Plaintiff is entitled to judgment for possession, but entry of judgment shall be stayed pending further court order.
2. Provided that Defendant pays \$1,300.00 each month for her use and occupancy of the Premises, judgment shall not enter prior to April 1, 2025.
3. If payment is not made as required, Plaintiff may file a motion to enter judgment.
4. If Defendant has not vacated by April 1, 2025, Plaintiff's counsel may submit an affidavit to the court attesting to this fact and judgment for possession shall enter without further hearing.
5. Execution shall issue by written application ten days after the date judgment enters.
6. Defendant shall continue to make diligent efforts to locate and secure replacement housing, and she shall document those efforts by keeping a log of all locations as to which she has applied or made inquiry, including the address,

date and time of contact, method of contact, name of contact person and result of contact.

7. If Defendant files a motion seeking to extend the stay, she shall include a copy of her housing search log with the motion.

SO ORDERED.

March 4, 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-4455

RICARDO NEGRON,

Plaintiff

v.

ROSA GOMEZ,

Defendant

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

This summary process case came before the court on January 13, 2025 for a bench trial. Plaintiff (the landlord) and Defendant (the tenant) each appeared self-represented. The landlord seeks to recover possession of residential premises located at 29 Elizabeth Street, First Floor, Springfield, Massachusetts (the "Premises") from the tenant based on nonpayment of rent.

Prior to the start of trial, the parties agreed on the landlord's case for possession and unpaid rent. The parties agreed that (a) the Premises are part of an owner-occupied two-family house; (b) the tenant has resided there since early 2016; (c) monthly rent is \$1,200.00 per month, (d) the amount of \$3,800.00 is outstanding as of the date of trial; (e) the tenant received the 14-day notice dated October 7, 2024, and (f) the tenant has not vacated. Defendant filed a late answer that was allowed by leave of court.

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:

The landlord alleges that the notice to quit is defective because it is dated October 7, 2024 and it gives the tenant notice to “vacate the premises at the end of the fourteen (14) day period on 10/7/24.” The tenant admitted at trial that she understood that the landlord was terminating the tenancy fourteen days from October 7, 2024 and was not confused by the incorrect date inserted by the landlord. The court rules that the typographical error in the notice to quit had no practical meaningful effect on the tenant and does not render the notice defective in this case. See *Cambridge Street Realty, LLC v. Stewart*, 481 Mass. 121, 130 (2019) (“To be defective such that it fails to terminate a lease, a notice to quit must involve a material error or omission, i.e., a defect that has some meaningful practical effect.”).

At trial, the tenant raised certain conditions of disrepair related to electricity. She alleges that she was charged for common area lighting, that her lights sometimes flickered, and that the landlord used an extension cord to connect laundry machines to an outlet. The parties agree that the landlord hired an electrician and made repairs to the electrical system. Nonetheless, the tenant contacted the City of Springfield Code Enforcement Department (“CED”) just prior to trial, and an inspection was conducted on January 7, 2025. The violations cited by CED were a

locked electrical panel, a broken back porch doorknob, and an outlet in bedroom not working properly.¹

The tenant did not prove by a preponderance of the evidence that the electrical issues in the Premises were substantial sanitary code violations or significant defects that impaired the value of the tenancy. The Code Enforcement citations are relatively minor and the court finds insufficient evidence to conclude that the tenant was paying for common area electricity. The conditions of disrepair do not constitute a breach of warranty. See *McAllister v Boston Housing Authority*, 429 Mass. 300, 305 (1999) (not every breach of the State sanitary code supports a warranty of habitability claim).²

The tenant paid a security deposit of \$900.00 when she moved into the Premises in February 2016. The landlord admits that he placed the money in his own account and never paid interest. Pursuant to G.L. c. 186, § 15B, a landlord may not commingle the deposit with its own assets. See § 15B(1)(e). As damages for this violation of law, the court awards three times the amount of the security deposit, which here is \$2,700.00. See § 15B(7). Moreover, where a security deposit is held for one year or longer, the landlord must pay interest at a rate of 5% at the end of each year of the tenancy.³ See § 15B(3)(b). Here, the tenant was entitled to interest payments for eight years of the tenancy for a total of \$360.00.

¹ The tenant hired her own electrician who submitted an email to her the day prior to trial with his findings. The email is inadmissible hearsay and was disregarded by the court.

² Moreover, the conditions about which the tenant complain were promptly addressed and do not constitute a serious interference with the tenancy. Therefore, the tenant did not establish a claim for breach of the covenant of quiet enjoyment.

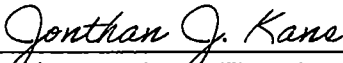
³ The provision that a landlord may pay such lesser amount of interest as the landlord receives from the bank is inapplicable in this case.

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

1. After offsetting the damages to which Defendant is entitled (\$3,060.00) against the unpaid rent through the date of trial (\$3,800.00), judgment shall enter in favor of Plaintiff for possession and damages in the amount of \$740.00, 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 \$740.00, plus court costs of \$ 223.52 and interest in the amount of \$ 30.43, for a total of \$ 993.95. 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 \$740.00 plus costs and interest, and execution shall issue by written application pursuant to Uniform Summary Process Rule 13.

SO ORDERED.

March 4, 2025


Jonathan J. Kane, First Justice

cc: Court Reporter