RS 7/6/2020

1. Landlord/Tenant
2. Commercial lease
3. East Village, Manhattan
4. Commercial tenant unprotected by new law
5. Commercial tenant claimed that the 2019 Housing law required owners to provide a written notice of nonpayment of rent.

The owner of a building located at 41 East 11th Street, Manhattan, filed a petition in Civil Court to evict its commercial tenant, Washington Square Institute, for non-payment of rent. The owner claimed rent in the amount of $240,007 for the period of August 2019 through October 2019, calculated at the monthly rent of $67,561. The owner moved for summary judgment.

Washington Square moved to dismiss the owner’s petition, arguing that under the State Housing Stability and Tenant Protection Act of 2019, the owner had failed to provide by certified mail a statutorily required written notice of the nonpayment of rent. Under the 2019 Housing Law the failure to provide written notice of the nonpayment of rent gives the tenant an affirmative defense against an eviction based upon the non-payment of rent.

Civil Court Judge Sabrina B. Kraus, rejected Washington Square’s argument, ruled that owner was not required to provide written notice, and denied Washington Square’s motion to dismiss the owner’s petition.

Judge Kraus ruled that Housing Law’s requirement for written notice of nonpayment of rent only applied to residential tenants, not commercial tenants. The Housing Law, Judge Kraus wrote, was “aimed at extending protections to residential tenants.” Judge Kraus relied on the statutory language which specified residential tenants, and the general policy of the State to allow commercial transactions without undue interference. Judge Kraus set the matter down for trial to resolve additional factual issues.

41 East 11th Street v. WSIP Realty Corp, 118 N.Y.S.3d 405 (Civ. Ct. 2020)