

CITY OF NEW YORK  
COUNTY OF NEW YORK, HOUSING PART N

-----X  
JDM WASHINGTON STREET LLC,  
Petitioner,

**-against-**

**Index No. L&T 301332/22**

DANIEL HARRIS,

**DECISION AND ORDER  
AFTER INQUEST**

Respondent.

-----X

**FRANCES A. ORTIZ, JUDGE<sup>1</sup>**

JDM Washington Street LLC, the petitioner in this proceeding (“Petitioner”), commenced this proceeding against, Daniel Harris, the respondent in this proceeding (“Respondent”) pursuant to *RPAPL § 713 (10)* seeking possession of 90 Washington Street Street, apt. 10H, New York, New York 10006 (“the subject premises”) on the ground of an alleged illegal lockout.

The matter was initially returnable on February 7, 2022. All parties appeared virtually. The Court conducted an hour long conference with the parties. Per decision and order dated February 7, 2022, the matter was adjourned for an in-person trial to be held on February 8, 2022 at 10 a.m. The Order was read aloud on the record and emailed to respondent. Additionally, respondent remained on the call with the court attorney and petitioner’s counsel. During the call, the respondent was reminded at least five more times of the date, time and exact location including room number of the trial. Despite the above circumstances and proof of proper service, respondent failed to appear in-person for the February 8, 2022 trial. The Court waited until 10:32 a.m. for respondent to arrive. Thereafter, the Court via Microsoft Teams called

---

<sup>1</sup> FTR Part N/Room 855/ February 8, 2022/10:01 am – 11:50 am.

respondent. The phone number was provided by petitioner's counsel. Respondent answered and the Court asked him why he wasn't present in the courtroom for the trial. His response was that he wasn't sure if the Court was serious, and he was tired. Then, he hung up. This Court in a further effort to deal with the matter on merits called respondent's number again. The call on Microsoft Teams read "connected" and then quickly changed to "leaving." The Court interprets this as a hang up call. After having exhausted all these attempts to have respondent participate in the trial, this Court proceeded to an inquest.

Petitioner called two witnesses, Alexandria Gurnowski and Eltion Vranga. The following three (3) exhibits were admitted into evidence: **P1** -lease with petitioner for apartment 10H at 90 Washington Street showing Christianna I. Omere as the tenant with a term beginning January 9, 2021 and ending March 31, 2022); **P2** - lease with petitioner for apartment 10K at 90 Washington Street showing respondent as the tenant with a term beginning October 18, 2019 and ending April 30, 2021); and **P3** - judicial notice of the Department of Housing Preservation and Development ("HPD") website showing the multiple dwelling registration for the subject building located at 90 Washington Street, New York, NY 10006. Lastly, the Court took judicial notice of the instant petition and exhibits. (*NYSCEF Doc. 1*)

Respondent failed to appear in his own defense.

### **TESTIMONY**

Alexandria Gurnowski testified that she is Petitioner's team supervisor and property manager. The subject building at 90 Washington Street, New York, NY is one of six residential buildings she manages. According to Ms. Gurnowski, the former tenant (Christianna I. Omere) of the subject premises emailed her on January 12, 2022 to inform her she had vacated the subject premises and removed all her property. As such, she immediately had resident manager,

Eltion, conduct a walk-through of the subject premises. She learned from Eltion that respondent was inside the subject premises. Respondent had changed the locks to the subject premises and installed the apt. 10K, which is the apartment he has a lease for (**P2**), cover lock to the cover lock for the subject premises. (*NYSCEF Doc. 1 – Exhibit photos*). Ms. Gurnowski also testified that she never provided respondent with a key to the premises, that respondent forcibly entered the subject premises, that she asked respondent to vacate but he refused, and that he remains there without permission from the petitioner.

Eltion Vrangas testified that he is the resident manager of the subject building. His duties include maintenance and care of the 398 unit building. On January 12, 2022 he knocked on the door of the subject premises to confirm that no one was there and respondent opened the door. Mr. Vrangas indicated that he never gave respondent the keys to the subject premises nor gave him permission to occupy the premises. NYPD did arrive at the subject premises on January 12, 2022 but the police did not want to assist management. Instead, the police recommended court involvement. Lastly, Mr. Vrangas testified that respondent currently remains in possession of the subject premises without the landlord's consent.

Based upon the credible testimonial and evidentiary evidence, the Court makes the following findings of fact and conclusions of law.

### **DISCUSSION**

Under *RPAPL § 713 (10)*, a special proceeding may be maintained where:

The person in possession has entered the property or remains in possession by force or unlawful means and he or his predecessor in interest was not in quiet possession for three years before the time of the forcible or unlawful entry or

detainer and the petitioner was peaceably in actual possession at the time of the forcible or unlawful entry or in constructive possession at the time of the forcible or unlawful detainer; no notice to quit shall be required in order to maintain a proceeding under this subdivision.

Here, petitioner does not have a landlord-tenant relationship with respondent as it relates to the subject premises. *RPAPL § 713*. He only had one with regards to apt. 10K at the subject building. **(P2)**. Petitioner was peaceably in actual and exclusive possession of the subject premises, once Ms. Omere surrendered the premises on January 12, 2022. **(P1 & P3)**. Then, respondent entered the premises by force and unlawful means when he changed the locks to the subject premises, installed the apt. 10K cover lock to the entrance door of the subject premises, began occupying the premises without consent of the petitioner and remains in possession of the premises. *RPAPL § 713 (10)*. Any occupation by respondent of the subject premises is an unlawful detainer which the NYPD should have assisted petitioner on January 12, 2022 by having removed respondent from the premises.

Accordingly, the petition is granted. However, the part of the petition that seeks damages under *RPAPL §853* is denied without prejudice to a plenary action.


The Clerk is directed to forthwith prepare a final judgment of possession in favor of the Petitioner and against the Respondent for 90 Washington Street, apt. 10H, New York, New York 10006 with issuance of the warrant forthwith and no stay of the execution. Petitioner may seek the assistance of a New York City Marshal or Sheriff or the New York Police City Department (NYPD) to enforce the judgment in the event that restoration is denied.

ORDERED: that the petition is granted.

ORDERED: that the Court awards a final judgment in favor of Petitioner as against Respondent, with a forthwith issuance and execution of the warrant of eviction against Respondent.

This is the decision and order of this court. Copies of this decision will be emailed and mailed to the parties and uploaded to NYSCEF.

Date: February 8, 2022

  
\_\_\_\_\_

**Frances A. Ortiz**  
**Judge, Housing Court**

Judge, Civil/Housing Court

Frances Ortiz

1880 A. 1880  
1880 A. 1880