

STATE OF NEW YORK  
DIVISION OF HOUSING AND COMMUNITY RENEWAL  
OFFICE OF RENT ADMINISTRATION  
GERTZ PLAZA  
92-31 UNION HALL STREET  
JAMAICA, NEW YORK 11433

\_\_\_\_\_ X  
IN THE MATTER OF THE  
ADMINISTRATIVE APPEAL OF : ADMINISTRATIVE REVIEW  
 : DOCKET NO.: ZH410007RT  
 :  
MARGUERITE KLOBE :  
(TENANT) :  
 : RENT ADMINISTRATOR'S  
 : DOCKET NO.: ZB410071S  
 :  
\_\_\_\_\_ PETITIONER X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On August 2, 2011, the above-named petitioner-tenant filed a Petition for Administrative Review (PAR) of an Order the Rent Administrator issued on June 28, 2011 concerning the housing accommodations known as 205 West 86<sup>th</sup> Street, Apt. 311, New York, NY. The Administrator, based upon a complete review of the record and/or an inspection conducted on June 15, 2011, denied the tenant's application for a rent reduction and terminated the proceeding.

In the PAR, the petitioner-tenant alleges that all of the service deficiencies, except the living room walls and ceilings, either existed or were covered up at the time of the inspection, as the owner only made temporary and cosmetic repairs, but failed to repair the ongoing leak and resulting damages; the complaint did not cite the bathroom door, but the bathroom door frame; the Order incorrectly indicated on page 2 that the inspection occurred on February 23, 2011, rather than on June 15, 2011; and the tenant never denied access for repairs.

In answer to the PAR, the owner, through its attorney, opposes the petition and alleges that the Rent Administrator correctly issued the underlying Order based on the DHCR inspection, which found that the owner was maintaining required services.

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The Commissioner has reviewed all of the evidence in the record and has carefully considered that portion of the record relevant to the issues raised by the petition. After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Rent Stabilization Code ("RSC" or "Code") Section 2523.4, the Administrator is authorized to direct the restoration of services and grant a rent reduction, upon application by a tenant, where it is determined that required services have not been maintained. The tenant's PAR does not establish any basis to modify or reverse the Administrator's determination, which was based upon the entire record, including the June 15, 2011 non-access inspection, finding that the walls in the kitchen, living room and hallway had no evidence of leaks, stains or defects; there was no evidence of mold, leaky water pipes or leak-damaged walls in the bathroom; there were new bathroom shower tiles and no defects to the tiles, the bathroom shower walls, or the grouting around the shower; and the floors in the living room and the hallway near the bathroom had no defects and were not warped. The inspector also reported that at the time of the inspection, the bathroom door was not rotting or broken, but because the bathroom door did not close fully, the handyman scraped the edge of the door frame and the door closed properly. The inspector further reported that the tenant indicated that the living room, the bathroom, the kitchen and the apartment hallway were painted in mid February. Therefore, the Commissioner finds that the Rent Administrator properly relied on the inspector's report to determine that the owner was maintaining required services and correctly denied the tenant's application for a rent reduction and terminated the proceeding.

The tenant's claim that the complaint did not cite the bathroom door but the bathroom door frame is insufficient to disturb the Administrator's Order. The Commissioner notes that the evidence below reveals that in response to the tenant's complaint, the Administrator requested, in pertinent part, an investigation of whether the bathroom door frame was rotting and broken. On June 15, 2011, the inspector reported that the bathroom door was not rotting or broken, but did not close properly because there was an accumulation of paint. The inspector further reported that the handyman scraped the edge of the door frame during the inspection, and the door closed properly. The Commissioner notes that the evidence below

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revealed that a defect with the door frame affected the functioning of the door, which the handyman corrected during the inspection. The Commissioner further notes that in the PAR, the tenant alleges that days before the DHCR inspection, the part of the doorframe which was rotting was replaced with a new piece of wood. Therefore, the Commissioner finds that the Rent Administrator correctly investigated the tenant's bathroom door frame complaint and properly processed the underlying proceeding. Accordingly, the tenant's claim is without merit.

The tenant's claim that the Order incorrectly noted on page 2 that the inspection occurred on February 23, 2011, rather than on June 15, 2011, does not provide a legal basis to reverse the Administrator's determination. The Commissioner notes that the evidence below discloses that the inspection occurred on June 15, 2011, which is correctly indicated on page 1 in the challenged Order. The evidence also reveals that the Administrator served the tenant's complaint upon the owner on February 23, 2011, the date inadvertently placed on the second page of the challenged Order. Therefore, the underlying Order is modified to reflect on page 2 that the inspection occurred on June 15, 2011.

The tenant's claim that she never denied access for repairs fails to raise a valid issue of fact or law addressing the correctness of the Rent Administrator's Order. The Commissioner notes that the evidence below reveals that in an answer filed on April 8, 2011, the owner alleged that the tenant had previously refused to provide the owner with access, but recently provided access for repairs. Although the tenant alleged that she always provided access, the inspector conducted a no access inspection. The Commissioner notes that the Rent Administrator did not determine whether the tenant denied access. Therefore, the tenant's claim is without merit.

The Commissioner notes that on appeal, the tenant submits a copy of a diagram, which was not before the Rent Administrator. Pursuant to RSC Section 2529.6, this evidence is beyond the scope of review in this proceeding, which is limited to that evidence placed before the Rent Administrator.

In the PAR, the tenant alleges service deficiencies and states that she filed another application for a rent reduction.

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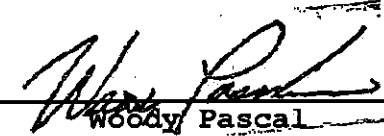
The tenant is advised that if there are new service deficiencies not alleged in a current decrease in services proceeding, the tenant may file another application for a rent reduction, if the facts so warrant.

**THEREFORE**, in accordance with the applicable provisions of the Rent Stabilization Law and Code and Operational Bulletin 84-1, it is

**ORDERED**, that this petition be, and the same hereby is, denied, and that the Rent Administrator's Order be, and the same hereby is, affirmed.

ISSUED: MAR 27 2013

MAR 27 2013

  
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Woody Pascal  
Deputy Commissioner