

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

-----X

Index No. 51868/17

BMW GROUP LLC,

Petitioner,

-against-

DECISION/ORDER

ALVARO TERAN JR. & ROSA TERAN,

Respondents.

-----X

SCHNEIDER, J.

This licensee holdover proceeding was tried before me on July 11, August 8, and September 26, 2019. Both sides were represented by counsel. The apartment at issue is rent stabilized. The last tenant of record, Alvaro Teran, Sr., died on August 20, 2016. Respondent Rosa Teran, his daughter-in-law, claimed a right to succeed to his tenancy on the grounds that she lived with him in the subject apartment for at least two years before his death.

The credible evidence at the trial did not establish that the subject apartment ever became Rosa Teran's primary residence. Rosa Teran and her husband, Alvaro Teran, Jr., own a home in New Jersey. Throughout the two years before the death of the tenant of record, all of the Teran's relevant documents show that the New Jersey home was their residence. All of their tax returns were filed from that address during the relevant period. Their bank account and credit card statements were sent to the New Jersey address. Most of their debit and credit transactions occurred in New Jersey. Their driver's licenses and motor vehicle registrations bore the New Jersey address. They were registered to vote in New Jersey. Rosa Teran's business license bears the New Jersey address, although she testified that many of her clients are in New York.

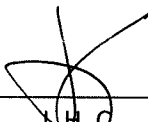
In May 2015 Rosa Teran certified to the New York City Department of Finance that she did not live in the subject apartment and that her income therefore should not be counted for purposes of setting the SCRIE rent for the subject apartment. Correspondence to New York City HRA about the tenant's SNAP benefits also stated that she could be reached at her address in New Jersey.

It is clear from the evidence that Rosa Teran spent a significant amount of time at the subject apartment. She supervised her father-in-law's home care aides, and stayed overnight twice a week when the attendant was off. She took her father-in-law to most of his doctor's appointments and supervised his medical care and medications. But she did not relocate her primary residence to his apartment.

Accordingly, final judgment for possession only is directed in favor of the petitioner and against Alvaro Teran, Jr., and Rosa Teran. The case is dismissed as to John and Jane Doe as there is no evidence that anyone other than the named respondents lives in the apartment. The warrant may issue forthwith. Execution of the warrant is stayed through March 31, 2020 on condition that use and occupancy continue at the last rental rate.

Dated:

11/4/19



J.H.C.
JEAN T. SCHNEIDER
JUDGE, HOUSING PART