

# Landlord v. Tenant

January 2015

## **Landlord Can Evict Tenant for Chronic Nonpayment of Rent #25898**

*(Decision submitted by Todd I. Nahins of the Manhattan law firm of Borah Goldstein Altschuler Nahins & Goidel, P.C., attorneys for the landlord.)*

Landlord sued to evict rent-stabilized tenant based on chronic nonpayment of rent. Landlord claimed that tenant violated a substantial obligation of his tenancy by consistently, chronically, and unjustifiably exhibiting a pattern of untimely rent payments. Tenant argued that he had lived in the apartment for 35 years and always paid his rent late, including fees and penalties. Tenant claimed that this created a “novation” of the lease, in effect changing the lease requirements to permit late payment. Tenant also claimed waiver, that landlord was harassing him, and that there was a breach of the warranty of habitability.

The court ruled for landlord without a trial. Tenant didn’t dispute that he had been served with 15 nonpayment petitions during a six-year period. Tenant also admitted that he ignored prior legal notices. There was no proof that landlord intended to revoke or cancel tenant’s payment obligations. Tenant’s lease contained a non-waiver clause, and there was no proof of harassment. There also was no proof that tenant complained about any conditions in the apartment before landlord started this eviction proceeding. Since there was a history of repeated nonpayment proceedings based on chronically late payment and no questions of fact, landlord could evict tenant and receive an award of attorney’s fees.

- FM United LLC v. Wollin: Index No. L&T78382/13 (Civ. Ct. NY; 12/22/14; Spears, J)