

Tenant Used Apartment for Short-Term Rentals

March 17, 2015

LVT Number: #26018

(Decision submitted by Jeffrey H. Seiden of the Manhattan law firm of Borah, Goldstein, Altschuler, Nahins & Goidel, P.C., who represented the landlord.)

Landlord sued to evict rent-stabilized tenant for using the apartment as a short-term rental hotel and profiteering. The court ruled for landlord after a trial.

Tenant moved into the 421-a building in October 2014 at a monthly rent of \$6,670. Landlord's employee testified that shortly after the tenancy commenced, she spoke with a person who claimed to have rented tenant's apartment through Airbnb. The employee then found tenant's advertisement on the Airbnb website, contacted tenant, and tenant told her he could do what he wanted and would not remove the ad. Tenant advertised short-term rentals of the apartment for \$649 per night, listed a check-in time of 4 p.m. and a check-out time of 11 a.m., and additional charges of \$95 per extra guest and a \$150 cleaning fee. Another building employee testified that tenant was rarely seen at the building and that various "guests" of tenant's had stayed in the apartment. Tenant, who worked in real estate, initially testified that he didn't personally list the apartment on Airbnb, but his Airbnb profile showed a photo of tenant, his wife, and son. Tenant admitted that the apartment was one used by his real estate company for rentals. Tenant claimed that he couldn't remember if he charged anyone for short-term rental of the apartment. Tenant also claimed that the signature on his lease for the apartment wasn't his signature. Tenant's wife's name wasn't on the lease.

The court found that tenant engaged in profiteering, either by renting the apartment himself through Airbnb or by causing his employees to rent out the apartment. Respondent's testimony was relentlessly evasive, and he attempted to withhold information. Profiteering by using the apartment as a hotel room was grounds for eviction and was incurable because it undermined the purpose of the Rent Stabilization Code.

42nd and 10th Associates, LLC v. Ikezi: 46 Misc.3d 1219(A), 2015 NY Slip Op 50124(U) (Civ. Ct. NY; 2/17/15; Stoller, J)