

CIVIL COURT OF THE CITY OF NEW YORK
RICHMOND COUNTY: HOUSING PART Y

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BALTIC COMPANY,

Petitioner,

-against-

RAMON GALINDO, et al.

Respondent.
-----X

INDEX NO. L&T 51605/13

**DECISION/ORDER
AFTER TRIAL
HON. MARINA CORA MUNDY**

HON. MARINA CORA MUNDY, J.H.C.

After trial, the Court makes the following findings of fact and conclusions of law:

The instant Holdover proceeding was commenced by Petitioner seeking a possessory judgment in connection with Respondent's tenancy at 1950 Clove Road, Apt. 240, Staten Island, New York ("Premises"). Petitioner alleges that Respondent violated the parties' Lease agreement as discussed below. Respondent denies that he breached the Lease.

Petitioner established its *prima facie* entitlement to a judgment of possession. The parties, by Counsel, stipulated on August 7, 2013 to admission into evidence of various documents supporting Petitioner's request for a judgment of possession, to wit, the Deed (Exhibit A), the Multiple Dwelling Registration (Exhibit B), the parties' Housing and Urban Development (HUD) Lease dated June 1, 2012 (Exhibit C), and the pleadings in the Court file (Exhibit E).

The parties also consented by Stipulation dated August 7, 2013 to admission to the foundation of video surveillance of Respondent dated December 14, 2012. The parties further stipulated that the male in the video located underneath the camera was Respondent Ramon Galindo ("Galindo") and the woman standing in the doorway as depicted in the video was Respondent

Theresa Meringolo. Finally, the parties stipulated that the cost of replacing the camera with which the Respondent Ramon Galindo tampered exceeded \$500.00 and that same could not be repaired due to the damage.

The trial continued on September 17, 2013, wherein based upon the prior stipulations, Petitioner rested and reserved its right to call rebuttal witnesses.

Video surveillance of the incident taken on December 14, 2012 which was stipulated into evidence showed Respondent Galindo exiting his apartment #240 at 7:07 p.m. while Respondent Theresa Meringolo stood in the apartment doorway. Respondent Galindo went back into the apartment and came out again, approaching the camera. He stood underneath the camera until the camera cut out.¹

Respondent Ramon Galindo testified. He did not deny touching the camera; rather, he testified that he took it down with a screwdriver and put it back up without cutting or pulling any wires. His testimony was corroborated by that of Respondent Theresa Meringolo ("Meringolo"), Galindo's fiance. She testified that, although she lives in apartment #236 of the Premises, she was watching television with Galindo at his apartment when the picture became unclear. At her request, Bill Cundari ("Bill"), the neighbor who installed Galindo's television, came to the apartment to look at the problem. They all went into the hallway to inspect a silver box that had been installed at the ceiling.

Meringolo further testified that Galindo stood on a chair, unscrewed the silver box with a screwdriver, noticed that it was a camera and, without disconnecting same, screwed it back in its

¹The video was viewed in Chambers by both attorneys on August 7, 2013 when it was stipulated into evidence. All parties were aware of the full content of the footage when it was viewed in Chambers and prior to Respondents' testimony on September 17, 2013.

place. She testified that she was standing next to Galindo while he performed these activities, with Bill standing with them. Neither Meringolo or Bill were shown standing with Galindo in the surveillance footage. Meringolo is never seen approaching the camera and Bill is never seen entering or exiting the apartment or approaching the camera.

William Cundari ("Bill") corroborated Meringolo's testimony that he installed Galindo's television and went to check on their complaints about the static. He believed that a Verizon employee had possibly installed an electrical box at the ceiling; as he had experience in this area, he expressed surprise that Verizon would install an electrical box in this manner. As a result, he accompanied Respondents Galindo and Meringolo to the box location and observed Galindo obtain a screwdriver from his apartment, stand on a chair underneath the location of the box, and then remove and replace same. Bill testified that he and Respondent Meringolo were standing right next to Galindo while he removed and replaced the subject box. In direct contrast to his testimony and that of the Respondents, Bill does not appear in the video surveillance.

This Court finds the testimony of both Respondents and their witness Bill Cundari incredible. The video surveillance duly admitted into evidence showed no individual approaching the camera location other than Respondent Galindo. That part of the surveillance that was corroborated by all witnesses testifying on behalf of the Respondent unequivocally proves that Galindo tampered with the camera from the box at the ceiling. The video surveillance shows that it was disconnected, therefore discrediting Respondents' testimony as well as that of Bill Cundari. Notwithstanding the discrepancies between the video surveillance and testimony, Petitioner's allegation that Respondent Galindo tampered with the box in which the camera was located is uncontested. Galindo testified that he removed it. Whether he replaced it is irrelevant based on this Court's finding that tampering with building property and, in this case, causing damage to the security camera, is a violation of the

Lease.²

Therefore, the Court grants a final judgment of possession in favor of Petitioner against all Respondents, issuance of the warrant of eviction forthwith, execution stayed through and including December 31, 2013 for Respondents to vacate the Premises. Upon default in timely vacatur on or before December 31, 2013, the warrant of eviction shall execute by service of the Marshal's notice. Insofar as the remaining Respondents did not appear in this action, this Court deems the trial an Inquest against all remaining parties.

The foregoing constitutes the decision and order of this Court.

Dated: September 25, 2013



HON. MARINA CORA MUNDY
JUDGE, HOUSING COURT

² Petitioner called Jeff McEvoy as a rebuttal witness who is a security and surveillance specialist working for Secure Watch 24, the company that installed the camera. He testified that cameras had been placed to observe four (4) apartments in the building, two (2) for non-primary residence Lease violations and two (2) for suspected narcotics possession and sale. On cross-examination, he was asked how many copies of the surveillance disc currently exist and where they are at this time. He testified that, besides the one stipulated into evidence and viewed at trial, one of the remaining copies is currently at the project's on-site management office and the other copy was requested by, and turned over to, the Staten Island District Attorney.