

49 Misc.3d 139(A)
Unreported Disposition
(The decision is referenced in
the New York Supplement.)
Supreme Court, Appellate Term,
First Department, New York.

149TH PARTNERS LP,
Petitioner–Landlord–Appellant,

v.

Delores WATTS, Respondent–Tenant, and Delores
Lyons, Respondent–Undertenant–Respondent,
and

Rodney Watts, [Raymond Watts](#), “John Doe”
and “Jane Doe”, Respondents–Undertenants.

No. 570732/15.

|

Oct. 30, 2015.

Petitioner-landlord appeals from an order of the Civil Court of the City of New York, New York County ([Anne Katz, J.](#)), dated April 7, 2015, which granted respondent-undertenant Delores Lyons' motion to dismiss the petition in a holdover summary proceeding.

Present: [LOWE, III](#), P.J., [SCHOENFELD](#), [LING-COHAN](#), JJ.

Opinion

PER CURIAM.

*1 Order ([Anne Katz, J.](#)), dated April 7, 2015, reversed, with \$10 costs, respondent Delores Lyons' motion to dismiss the petition denied, and the petition is reinstated.

Respondent-undertenant Lyons may not be heard to argue that the combined ([Golub](#)) notice of lease nonrenewal and termination utilized by landlord was not a proper predicate for this holdover proceeding seeking possession based upon the record tenant's alleged nonprimary residence. The relevant notice provisions of the Rent Stabilization Code (*see* [9 NYCRR §§ 2524.2\[c\] \[2\], 2524.4\[c\]](#)) are expressly made applicable only to a tenant. An occupant who is not a party to a lease agreement need not be served with the prescribed notices (*see* [1700 First Ave., LLC v. Parsons–Novak](#), [46 Misc.3d 30 \[2014\]](#); *see also* [170 W. 85th St. Tenants Assn. v. Cruz](#), [173 A.D.2d 338 \[1991\]](#)), and cannot reasonably forestall consideration of landlord's claim of nonprimary residence—a claim directed exclusively against the tenant—on the basis of any claimed infirmity with the notices (*see* [West End Assoc. v. McGlone](#), [32 Misc.3d 145\[A\]](#), [2011 N.Y. Slip Op 51732\[U\]](#) [[App Term, 1st Dept 2011](#)]). In view of the foregoing, we need not address respondent's technical argument concerning the jurisdictional sufficiency of the underlying notice. Were we to reach it, we would find it unavailing (*see* [Pagano v. Cohen](#), [190 Misc.2d 308 \[2001\]](#)).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE COURT.

I concur.

All Citations

49 Misc.3d 139(A), 28 N.Y.S.3d 649 (Table), 2015 WL 6633098, 2015 N.Y. Slip Op. 51576(U)