

49 Misc.3d 139(A)
Unreported Disposition
(The decision is referenced in
the New York Supplement.)
Supreme Court, Appellate Term,
Second Dept.,
2, 11 & 13 Judicial Dist.

JLNT REALTY, LLC, Appellant,
v.
Pierre Andre LIAUTAUD, Tenant, and
Jim St. Germain, Nonparty–Respondent.

No. 2013–2585KC.
|
Oct. 23, 2015.

Appeal from an order of the Civil Court of the City of New York, Kings County ([Marc Finkelstein](#), J.), dated November 26, 2013. The order granted a motion by occupant Jim St. Germain to be restored to possession in a nonpayment summary proceeding.

Present: [PESCE](#), P.J., [ALIOTTA](#) and [SOLOMON](#), JJ.

Opinion

*1 ORDERED that the order is reversed, without costs, and the motion by occupant Jim St. Germain to be restored to possession is denied.

Landlord commenced this nonpayment proceeding against the tenant of record, Pierre Andre Liautaud. After landlord obtained a final judgment of possession

and warrant of eviction against tenant, the warrant was executed against, insofar as is relevant to this appeal, Jim St. Germain (occupant) and his father. Occupant moved to be restored to possession, and the Civil Court granted his motion, finding that due process required that occupant be named in the proceeding in order for the warrant to have been effective against him (see [170 W. 85th St. Tenants Assn. v. Cruz](#), 173 A.D.2d 338, 339–340 [1991]).

Contrary to the Civil Court's determination, occupant is a member of tenant's family who, under the circumstances presented, was properly evicted under the warrant of eviction (see [Loira v. Anagnostopolous](#), 204 A.D.2d 608 [1994]; [Kuprewicz v. Muktadir](#), 2002 N.Y. Slip Op 40527[U] [App Term, 2d & 11th Jud Dists 2002]; 2 Robert F. Dolan, *Rasch's Landlord and Tenant—Summary Proceedings* § 38:31 at 596–597 [4th ed 1998]). Furthermore, occupant has not proffered any proof in support of his allegation that he was entitled to succession rights to the subject rent-stabilized apartment after the death of the former tenant.

Accordingly, the order is reversed and occupant's motion to be restored to possession is denied.

[PESCE](#), P.J., [ALIOTTA](#) and [SOLOMON](#), JJ., concur.

All Citations

49 Misc.3d 139(A), 26 N.Y.S.3d 213 (Table), 2015 WL 6511874, 2015 N.Y. Slip Op. 51567(U)