

189 Misc.2d 222, 730 N.Y.S.2d 826, 2001 N.Y. Slip Op. 21412

(Cite as: **189 Misc.2d 222, 730 N.Y.S.2d 826**)

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Supreme Court, Appellate Term, New York.  
First Department.

Dorothea S. SPAEDA, Appellant,  
v.

Gerry BAKIRTJY, Respondent, et al., Respondents.

May 23, 2001.

The Civil Court, New York County, Lucy Billings, J., 186 Misc.2d 557, 720 N.Y.S.2d 292, dismissed a holdover petition, and landlord appealed. The Supreme Court, Appellate Term held that holdover petition was properly dismissed for failure to properly plead the rent stabilized status of the subject apartment premises.

Affirmed.

West Headnotes

**[1] Landlord and Tenant** ↪ **303(1)**

233k303(1) Most Cited Cases

Holdover petition was properly dismissed for failure to properly plead the rent stabilized status of the subject apartment premises; neither of the specified statutory preconditions for deregulation, vacancy decontrol or proper lease notification, was claimed or shown to exist. New York City Administrative Code, § 26-504, subd. c.

**[2] Landlord and Tenant** ↪ **278.4(.5)**

233k278.4(.5) Most Cited Cases

Protections afforded by Rent Stabilization Law were not intended to benefit tenants in J51 buildings, whose occupancy began prior to the J51 tax benefit period. New York City Administrative Code, § 26-504, subd. c.

**\*\*826 \*222** Borah, Goldstein, Altschuler & Schwartz, P. C., New York City (Steven L. Schultz of counsel), for appellant.

**Himmelstein, \*223** McConnell, Gribben & Donoghue, New York City (Samuel J. **Himmelstein** of counsel), for Gerry Bakirtjy, respondent.

Present: WILLIAM P. McCOOE, J.P., PHYLLIS GANGEL-JACOB and LUCINDO SUAREZ, Justices.

PER CURIAM.

Order dated January 14, 2000 (Lucy Billings, J.) affirmed, with \$10 costs.

[1] Civil Court properly dismissed the holdover petition for failure to properly **\*\*827** plead the rent stabilized status of the subject apartment premises. Respondent's tenancy, which began in 1980, was brought within the ambit of rent stabilization in 1981 upon the landlord's receipt of tax benefits under the "J51" program, and remains under stabilization protection to date despite the expiration of the tax benefit period in 1985. Pursuant to Rent Stabilization Law § 26-504(c) (as amended by L. 1985, ch. 288, § 7), dwelling units in J51 buildings "shall be subject" to continued protection under rent stabilization "until the occurrence of the first vacancy of such unit after such benefits are no longer being received", except where "each lease and renewal thereof for such unit for the tenant in residence at the time of the expiration of the tax benefit period" has included a proper notice informing the tenant, *inter alia*, that the unit will become deregulated upon the expiration of the tax benefit period.

[2] Neither of the specified statutory preconditions for deregulation-- vacancy decontrol or proper lease notification--was claimed or shown to exist in this case. Nor is there merit to the landlord's contention that the protections afforded by RSL § 26-504(c) were not intended to benefit tenants, such as the respondent herein, whose occupancy began prior to the J51 tax benefit period. The restrictive

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interpretation offered by the landlord is unsupported by the language of the amended version of the statute or its legislative history, the latter reflecting the Legislature's intent to extend "continued rent regulation", with vacancy decontrol limits, to all "presently occupied apartments" after the J51 tax benefit expires (1985 New York State Legislative Annual, Memorandum of Senator Daly, at 130).

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