

(Cite as: **245 A.D.2d 218, 666 N.Y.S.2d 633**)

Supreme Court, Appellate Division, First
Department, New York.
Christopher Hart ZAFRA, Petitioner-Appellant,
v.
Simon PILKES, Respondent-Respondent.
New York State Division of Housing and
Community Renewal, et al., Amici Curiae.

Dec. 30, 1997.

Order was entered by the Supreme Court, New York County, affirming order of the Civil Court, New York County, Malatzky, J., which dismissed nonpayment petition, with leave to restore for purposes of determining amount of any rent overcharge. Appeal was taken. The Supreme Court, Appellate Division, held that amended Rent Stabilization Law provisions, that specifically precluded court, in addressing rent overcharge complaint, from inquiring into rental history of housing accommodation more than four years prior to filing of tenant's complaint, applied to proceeding which was pending on provisions' effective date.

Reversed and remanded.

West Headnotes

Landlord and Tenant ↪ **200.12**

233k200.12 Most Cited Cases

Amended Rent Stabilization Law provisions, that specifically precluded court, in addressing rent overcharge complaint, from inquiring into rental history of housing accommodation more than four years prior to filing of tenant's complaint, applied to proceeding which was pending on provisions' effective date, and prohibited inquiry into legality of rent increases prior to this four-year period for purpose of determining extent to which any overcharges

prior to this four-year period bore upon tenant's recovery for the four-year period.
McK.Unconsol.Laws § 26-516, subd. a.

****633** Anthony F. LeCrichia, for
Petitioner-Appellant.

Samuel J. **Himmelstein**, for Respondent.

Marcia P. Hirsch, Martin B. Schneider, Sherwin Belkin, Magda L. Cruz, John C. Gray, Jr., Raun J. Rasmussen, Andrew Scherer, Helaine Barnett, Scott Rosenberg, Judith Goldiner, Collin Bull, Marlen Bodden, Rachel Littman, for amici curiae New York State Division of Housing and Community Renewal.

Before MURPHY, P.J., and SULLIVAN,
MILONAS and MAZZARELLI, JJ.

MEMORANDUM DECISION.

***218** Order of the Appellate Term of the Supreme Court, First Department, entered on or about April 10, 1996, which affirmed an order of the Civil Court, New York County (Howard Malatzky, J.), entered on or about December 25, 1994, dismissing this nonpayment petition after trial, with leave to restore for purposes of determining the amount of any rent overcharge, unanimously reversed, on the law, without ***219** costs, to the extent of precluding consideration of the rental history prior to the four-year period provided by statute, and the matter remanded to the Civil Court for proceedings consistent with the decision herein.

Appellate Term upheld the determination of the Civil Court that neither the four-year Statute of Limitations for rent overcharge complaints (Rent Stabilization Law of 1969 [Administrative Code of City of NY] § 26-516[a] [2]; Rent Stabilization Code [9 NYCRR] 2526.1[a][2]) nor the record-keeping provisions relieving a landlord from having to produce records dating back more than

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four years prior to the most recent registration date (Rent Stabilization Law § 26-516[g]) prohibits inquiry into the legality of rent increases prior to the four-year period through testimony or other additional proof, for the purpose of determining the extent to which any overcharges prior to the four-year period bear upon the recovery for the four-year period.

However, on June 19, 1997, the Legislature adopted the Rent Regulation Reform Act of 1997, two provisions of which amended Rent Stabilization Law § 26- 516(a)(2) to specifically "preclude examination of the rental history ****634** of the housing accommodation prior to the four-year period preceding the filing of the complaint..." These particular provisions, moreover, were among those that were to take effect immediately and apply to "any action or proceeding pending in any court...." (L 1997, ch 116, § 46[1].)

By virtue of the Act, and the unambiguous, unqualified language regarding its effective date, the Appellate Term order is reversed to the extent that, upon further Civil Court proceedings, the rental history prior to the four-year statutory period may not be considered, pursuant to the amended statute, and the matter is remanded to the Civil Court for proceedings consistent with the decision herein.

The Decision and Order of this Court entered herein on July 24, 1997, is hereby recalled and vacated. See M-5185 and M-5196 decided simultaneously herewith.

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