NH-1004

ORDER 438579

DOCKET NO: NHHCV226016784S

SUPERIOR COURT

SERAMONTE CT LLC
V.
BLAU, GRETA Et Al

HOUSING SESSION
AT NEW HAVEN

4/22/2024

ORDER

The following order is entered in the above matter:

ORDER:
Disposition: JDGACTD - JUDGMENT AFTER COMPLETED TRIAL TO THE COURT FOR THE DEFENDANT(S)

The plaintiff, SERAMONTE CT LLC, commenced this action by complaint returnable to this Court on August 8, 2022 alleging that the defendants, GRETA BLAU and PAUL BOUDREAU committed "serious nuisance" and should be dispossessed from the premises they occupy at 63 KAYE VIEW DRIVE, APARTMENT B in HAMDEN. The plaintiff caused a notice to quit to be served upon the defendants on or about July 13, 2022 with a quit date of July 19, 2022.

By way of answer, the defendants alternate between admissions and denials of the plaintiff's claims. By way of special defense, the defendants claim that the plaintiff has failed to state of claim as to serious nuisance; that the notice to quit and complaint appear to allege different statutory bases of serious nuisance; and/or that the plaintiff's claims, if proven, required a KAPA Notice. (The phrase "KAPA Notice" is derived from KAPA ASSOCIATES V. FLORES, 35 Conn.Supp. 274 (1979), which requires a landlord seeking to evict on the basis of specifically enumerated conduct of a tenant to notify the tenant of the particular acts or omissions forming the basis of the termination and the fact that he or she is entitled an opportunity to correct the alleged conduct/action.)

The Court heard testimony from the litigants and witnesses on April 12, 2024. In reaching its decision, the Court has carefully and fully considered and weighed all of the evidence received at trial; evaluated the credibility of the witnesses; assessed the weight, if any, to be given specific evidence and measured the probative force of conflicting evidence; reviewed and considered all exhibits, relevant statutes and case law; and has drawn such inferences from the evidence, or facts established by the evidence, that it deemed reasonable and logical.

The plaintiff bears the burden of proof and must show by a preponderance of the evidence that the defendant engaged in behavior that constituted a serious nuisance as defined by the statute. To prevail on a claim of serious nuisance, then, the plaintiff must establish, by a fair preponderance of the evidence, the following essential elements:
(1) that the plaintiff is the lessor or owner of the premises;
(2) the address of the premises;
(3) that the defendant was in possession of the premises;
(4) the substance of the behavior/actions amounting to a serious nuisance complained of as set forth by statute;
(5) that the serious nuisance created a risk that was both immediate and serious;
(6) the service of a proper notice to quit with its service and termination dates; and
(7) that despite the passage of the termination date, the defendant is still in possession of the premises.

"Serious nuisance is more than a nuisance. It is more than a material noncompliance with the tenant's duties ..." QUILES V. MARTINEZ, 15 Conn.L.Rptr. 114 (June 30, 1995, Tierney, J.). This Court analyzed a number of serious nuisance cases during the pandemic for a recitation of recent serious nuisance findings from around the state (See LIN V. GONZALEZ, JD of Stamford at Norwalk Housing Session Docket No. NWH-CV-20-5002441-S, (March 2, 2021, J. Spader) and has familiarity with applying the aforementioned elements to the facts of particular cases.

The claims of the plaintiff as to Ms. Blau in its notice to quit and complaint tracks the language of CONNECTICUT GENERAL STATUTE §47a-15(A). CONNECTICUT GENERAL STATUTE §47a-15 (A) defines "serious nuisance" as "inflicting bodily harm upon another tenant or the landlord or threatening to inflict such harm with the present ability to effect the harm and under circumstances which would lead a reasonable person to believe that such threat will be carried out . . ."

The claims of the plaintiff as to Mr. Boudreau in its notice to quit and complaint indicates that he failed to prevent Ms. Blau from engaging in serious nuisance in contravention of his duties as a co-tenant pursuant to CONNECTICUT GENERAL STATUTE §47a-11(g). CONNECTICUT GENERAL STATUTE §47a-11(g) requires that a tenant "conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises or constitute a nuisance . . . or a serious nuisance."

The plaintiff has overwhelmingly established that the defendant-Blau engaged in troublesome behavior.

She disagreed with the towing policies of the plaintiff and did all that she could to obstruct the plaintiff's ability to enforce its policies at the premises. The videos and audio recordings played in Court demonstrated the questionable actions of Ms. Blau (actions she acknowledged were "immature.") She would use her vehicle to block the tow truck drivers called to the premises and she screamed vulgarities and used obscene gestures towards the plaintiff's contractors. She accused the owner of the tow truck company of being a racist and pedophile and harassed him through phone calls and disparaging behavior.

The Court took judicial notice of the private protective order proceedings by the tow truck representatives (UWY-CV-23-5033743-S and UWY-CV-23-5033744-S) in which initial full no contact protective orders were granted and, after trial, limited protective orders were issued. At this trial, the Court limited the testimony to the incidents in the plaintiff's complaint, but the Court will note in taking judicial notice of the protective order files that, even after the filing of this case, the protective order files indicate an unwillingness of the defendant to attempt to act reasonably or respectfully toward the contractor. Her demeanor and declarations at this trial indicate an individual with no credibility in her statements to the Court. She claims without sincerity that she had little recollection of the events complained of as she was dealing with breast cancer at the time. Her intransigence was on display, for example, when she claimed the tow trucks should just drive over the sidewalk if her car happened to wind up in front of them without any sense of culpability for being obstructionist and causing her car, and her person, to be in front of the tow trucks daring them to pull forward. She apparently believes in the truth of her statements regarding racism and pedophilia of the trucking employees and has no self-awareness to realize that conducting a vigilante-type mission of following tow trucks on public highways and calling in threats to individuals can create hostilities and ratchet up the potential for violence. Her behavior is well beyond her self-described term of "immature" and is not to be condoned. This Court regularly counsels that when considering cases like this, one must be mindful that no one is as good as their best day nor should they be judged by their worst day. Based on the pleadings, the Court can only consider the singular moments complained of – but it does have concerns of the continuing behavior of the defendant that are not limited to a sole immature day.

Likewise, Ms. Blau also caused an incident with the plaintiff's attorney in the Courthouse. As the Court noted above, it does not find the defendant credible in her lack of recollections in her testimony. Here, it finds the plaintiff's witnesses credible that in the course of negotiating a separate summary process action against a different tenant, Ms. Blau involved herself in the proceeding and the Court finds that she aggressively approached the plaintiff's attorney in the hallway and caused her to nearly fall and injure herself, but for her being "caught" by her co-counsel. While Ms. Blau has every right to be in Court to observe other Court proceedings, she was not an attorney and was correctly refused entry into a private mediation session with the Court's Housing Mediator. The Court believes she was out of line and acted improperly on the date in question. Advocacy can be a benefit to provide a voice to the voiceless, but when done without self-awareness, the potential for negative ramifications for all involved is present.

Both the incidents complained of would amount to serious nuisance – had they been perpetrated on the landlord or another tenant. CONNECTICUT GENERAL STATUTE §47a-15(A) is specific that relief under that section requires the actions complained of be directed "upon another tenant or the landlord." Here, the incidents were directed at independent contractors of the plaintiff and do not fit the strict confines of the serious nuisance statute.

The Court understands that the plaintiff is a corporate entity, so it must act through individuals. Had the complaint detailed incidents against an actual employee of the plaintiff (like a property manager, or maintenance individual), the Court would find serious nuisance in the defendant's actions. But the tow truck drivers work for a different company and are contracted to the plaintiff. Similarly, its attorney is not its employee. The drivers obtained protective orders. While the attorney did not seek criminal charges against the defendant - she could have. The Court finds the behavior of the defendant indefensible and her lack of self-awareness at trial, frankly, embarrassing, but the incidents do not fit within the statutory "serious nuisance" framework.

Had the plaintiff provided a KAPA Notice and brought a nuisance case or violation of lease case for the defendant's clear attempts to interfere with the plaintiff's contracts with its towing company and attorneys, the plaintiff would have been awarded possession in this matter. The actions that continued after the commencement of this action that gave rise to the issuance of a protective order would have been sufficient to warrant judgment here, too, as it does not appear that the defendant is capable of complying with a KAPA Notice.

Accordingly, the Court does not need to address the defendant's special defenses, nor the third count as to Ms. Blau's husband, as the plaintiff cannot establish its cause of action under CONNECTICUT GENERAL STATUTE §47a-15(A) when the incidents complained of were directed at employees of the landlord's contractors rather than the landlord or its employees, themselves. While the Court could imagine incidents that may extend to some contractors, those activities are not present in this case.

Judgment enters for the defendants.

438579

Judge: WALTER MICHAEL SPADER JR