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1. [930-940 LLC, v. Quashie et al., 2018 N.Y. Misc. LEXIS 3263](#)

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[930-940 LLC, v. Quashie et al.](#)

Civil Court of the City of New York, Kings County

June 4, 2018, Decided

Index No. 75966/14

Reporter

2018 N.Y. Misc. LEXIS 3263 *

930-940 LLC, Petitioner, -against- Wade Quashie et al.,
Respondents.

Notice: NOT APPROVED BY REPORTER OF DECISIONS
FOR REPORTING IN STATE REPORTS.

Core Terms

premises, court finds, notice, lived

Judges: [*1] Present: Hon. GARY F. MARTON.

Opinion by: GARY F. MARTON

Opinion

DECISION

After considering the testimony and the other evidence at the trial of this alleged nonprimary residence holdover proceeding, the court makes the following findings of fact, reaches the following conclusions of law, and grants petitioner a judgment of possession against respondents Wade Quashie and Malika Quashie after trial and against respondent "John Doe" after inquest. One or more warrants may issue forthwith but such issuance shall not preclude an application for relief pursuant to [RPAPL § 753](#). Upon service of a copy of the judgments with notice of entry, and upon papers setting forth the particulars thereof, petitioner may move for an award of back rent, use and occupancy, and such other relief as may seem just.

The court notes that by a notice of appearance dated June 27, 2014 Wade Quashie appeared by counsel, and that by a stipulation "so ordered" on February 22, 2016 Malika Quashie appeared by the same counsel and was substituted for Jane Doe. At no time did respondents interpose an answer¹, and

¹By a two-attorney stipulation "so ordered" on August 4, 2014

they were deemed to have interposed a general denial.

The court finds that pursuant to a deed dated June 6, 2013 petitioner became the landlord [*2] of the premises, an apartment at 930 Prospect Place, Brooklyn, New York, and the owner of the building in which the premises is located. The court finds that Wade Quashie became the tenant of record before that date and perhaps pursuant to a lease beginning on October 1, 2009. The court finds that a petition, notice of petition, and predicate notice were duly served. The court finds that the notice advised that petitioner would not renew respondent's lease to the premises when the lease expired on May 31, 2014 because petitioner believed that the premises was not respondent's primary residence. The court finds that the premises is a one-bedroom apartment that is registered with the State of New York's Division of Housing and Community Renewal as rent-stabilized and that the building is registered with the City of New York's Department of Housing Preservation and Development as a multiple dwelling.

Petitioner also showed and the court also finds, among other things, that respondent Wade Quashie married on April 30, 2001 and listed on the marriage certificate a residence address other than the premises, i.e., 838 East 38th Street, Brooklyn, New York, that on August 2, 2011 the State of [*3] New York issued a driver's license to Wade Quashie that listed an address other than the premises, i.e., 838 East 38th Street, Brooklyn, New York, and that on January 14, 2016 Wade Quashie registered to vote listing as his address an address other than the premises, i.e., 838 East 38th Street, Brooklyn, New York. The court holds that petitioner proved a prima facie case.

In his defense Wade Quashie testified that 838 East 38th Street is a three-bedroom house that belonged to Brenda

respondent agreed to serve an answer by August 8, 2014. By a notice of motion dated August 10, 2015 petitioner's prior counsel moved for, among other things, an order striking respondent's answer. However, and perhaps not surprisingly, the supporting affirmation and affidavit did not recite the interposition of an answer, and no copy of an answer was annexed as an exhibit to the moving papers.

Lyken whom he married in 2001. He testified that their marriage was not good. He testified that his daughter Malika was born in Trinidad and was living there when he married Brenda Lyken. He testified that Malika came to live with them but that Malika and Brenda Lyken did not get along with each other.

He testified that the foregoing motivated him to look for another apartment and, after a search, to become the tenant of the premises. He testified that he has lived there since then, that by 2012 he had moved all of his clothes there, that until 2014 Malika slept in the bedroom and that he slept in the living room on a couch, but that now the arrangement is different.

The court finds that Wade Quashie's testimony [*4] had little credibility and little probative value. He testified that he did not remember when he moved into the premises; he testified that it might have been in 2003, 2004, or 2005. He testified that in 2009 he obtained a license to operate a day care center at the premises but that he never operated a day care center there. He testified that during 2012 through 2014 he lived at the premises, but he also testified that during that time he was "back and forth" between the premises and 838 East 38th St. He also testified that he is a self-employed carpenter, that often he works out-of-state, and that during 2012 through 2014 he was away on jobs but that he didn't remember how much time he spent on those jobs.

Very significantly, respondent did not offer any document that showed the premises as his address, and he did not offer any explanation for not offering a document that showed the premises as his address. There were no tax returns, no W-2s, no 1099s, no bank records, no credit card or debit card statements, and no utility bills. The court draws the negative inference that such of these documents as might have been offered would have shown an address other than the premises.

Malika [*5] Quashie and Brenda Lyken also testified. Malika Quashie testified that she came to the United States in 1997 and that she lived at 838 East 38th Street with her stepmother and father. She testified that she started living at the premises in 2004 or 2005, that Wade Quashie lives there, and that he travels a lot for work. This testimony was largely devoid of particulars, and the court finds that it was self-serving and that it had no more probative value than Wade Quashie's.

Lyken² testified that she is a self-employed child care instructor, that during the years 2012-2014 she saw Wade

Quashie two to three times per week, that she does not know whether he lives at the premises, that she does not know what his source of income is, and that he does not pay any of the bills for 838 East 38th Street. The court finds that Lyken's testimony was in general credible but not probative of whether Wade Quashie maintained the premises as his primary residence.

The court holds that Wade Quashie did not establish his defense that he maintained an ongoing substantial nexus with the premises for actual living purposes. Accordingly, the court grants the relief set out above.

The court will mail to the parties [*6] copies of this decision along with their exhibits.

Dated: Brooklyn, NY

June 4, 2018

/s/ Gary F. Marton

Gary F. Marton

End of Document

²The marriage certificate provides that her "new surname" is "Lyken-Quashie." However, when she testified at trial she gave her surname as "Lyken."