

NEW YORK HOUSING JOURNAL

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Nuisance Tenant with Debris-Filled Apartment Evicted

An owner sued to evict a rent-stabilized tenant for substantially violating his lease and creating a nuisance by keeping his apartment in an unclean, unsanitary, and unhealthy condition. The tenant argued that even if those conditions had existed, he had cured them. At the trial, six witnesses testified about the foul smell emanating from the apartment, as well as the presence of dirt, debris, and vermin infestation in the apartment. The court conducted its own inspection of the apartment and observed among other things, an old and musty smell inside the apartment, dirt, dust, and grime throughout the apartment, dirty belongings, closets stuffed to capacity and in disarray, and filth throughout the apartment. Accordingly the court rejected the tenant's claim that he had cured the nuisance conditions. It found that the apartment was unfit for human habitation and a health and safety risk to other tenants. It also found that the tenant wasn't entitled to cure the nuisance condition after the trial, even though the case was brought in part based on a violation of the lease (tenants are usually allowed to cure cases based on lease violations). The court said that a tenant isn't entitled to cure a nuisance condition involving clutter and filth if, as was the situation in this case, the condition has continued for a long time and has shown no signs of abating [*Cabrini Terrace Joint Venture v. O'Brien*: 2008 NY Slip Op 50443 (U) (Civ. Ct. NY 3/708)].

TIP: According to Adam Leitman Bailey, who tried the case, "The key to winning this case proved to be showing the court that the tenant could never cure a condition that the tenant didn't see anything wrong with."

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