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SJC-13256

KELECHI LINARDON vs. WOODSPRING SUITES BOSTON MA SAUGUS, LLC.

July 26, 2022.

Supreme Judicial Court, Superintendence of inferior courts.
Practice, Civil, Summary process, Judgment, Execution, Stay of proceedings.

Kelechi Linardon appeals from an order of a single justice of this court lifting a stay of execution of a judgment of the Housing Court, which awarded possession of the housing that Linardon currently occupies in a long-term residential hotel to WoodSpring Suites Boston MA Saugus, LLC (WoodSpring Suites).¹ We affirm.

The Housing Court judge issued his findings and order on February 22, 2019, and final judgment entered on February 25, 2019. Linardon subsequently filed a motion for reconsideration, which was denied (except as to reconsideration of certain findings of fact not relevant here) on March 29, 2019. Linardon appealed to the Appeals Court from the Housing Court's judgment and from the order denying in part her motion for reconsideration. Linardon filed motions for a stay of execution pending appeal, first in the Housing Court and then in the Appeals Court, neither of which was successful. Linardon then filed a petition for relief in the county court pursuant to G. L. c. 211, § 3, asking the court to stay execution of the

¹ Although Linardon commenced this action in the county court, she is the defendant in the underlying summary process action, and WoodSpring Suites is the plaintiff. See WoodSpring Suites Boston MA Saugus, LLC v. Linardon, 100 Mass. App. Ct. 1116 (2021). To avoid confusion, we refer to the parties by name, rather than party designation.

Housing Court judgment and to waive the appeal bond. A single justice of this court granted certain relief, including, eventually, a stay of execution "pending resolution of [Linardon's] appeal," provided that Linardon make timely use and occupancy payments, as ordered by the single justice.

On December 9, 2021, the Appeals Court issued a decision affirming the February 25, 2019, Housing Court judgment and the March 29, 2019, order denying in part Linardon's motion for reconsideration. See WoodSpring Suites Boston MA Saugus, LLC v. Linardon, 100 Mass. App. Ct. 1116 (2021). Then, on March 8, 2022, WoodSpring Suites filed a motion to lift the stay of execution in the county court, as Linardon's appeal had terminated. The single justice granted the motion in an order dated March 21, 2022. Linardon timely appealed.

On April 8, 2022, Linardon moved for a stay of execution pending the resolution of this appeal, which this court denied. Over two months later, on June 27, 2022, while this appeal was pending, Linardon filed a motion to file a late application for further appellate review of the Appeals Court's December 9, 2021, decision affirming the Housing Court judgment.

The sole issue in the appeal before us is whether the single justice abused his discretion in lifting the stay of execution on March 21, 2022. We think it plain that he did not. The stay at issue was entered by a single justice of this court "pending resolution of [Linardon's] appeal" in the summary process action. As of the time the single justice entered the order lifting the stay, the Appeals Court had issued a decision affirming the Housing Court's judgment, the time had expired for Linardon to seek further appellate review in this court, and the Appeals Court had issued its rescript to the Housing Court. The fact that Linardon has now moved, months later, for leave to file a late application for further appellate review of the Appeals Court's decision does not transform the single justice's ruling into an abuse of discretion.

The March 21, 2022, order of the single justice lifting the stay of execution is affirmed.

So ordered.

The case was submitted on briefs.
Kelechi Linardon, pro se.
Albert A. DeNapoli for the respondent.