

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

ELENA AREM,

Plaintiff,

vs.

EDMD REALTY LLC and
MARIA MORAWIEC,

Defendants.

Index No. 3204/10

Date Purchased: 2/5/10

SUMMONS

TO THE ABOVE-NAMED DEFENDANTS

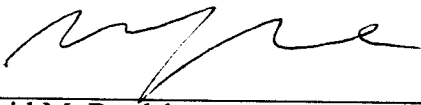
YOU ARE HEREBY SUMMONED and required to serve upon plaintiff's attorneys an answer to the complaint in this action within 20 days after the service of this summons, exclusive of the date of the summons, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer or appear, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates the Kings County as the place of trial. Venue is based on CPLR §§503(a) and (c) because the Plaintiff resides in the Kings County and the Plaintiff's cause of action arose in Kings County.

KINGS COUNTY
RECEIVED
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CLERK OF COURT

Dated: New York, New York
February 5, 2010

LATHAM & WATKINS LLP

By: 

David M. Brodsky
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additional requests to accept the voucher which were made on behalf of Ms. Arem. Each of these refusals constitutes an unlawful act of discrimination based on Plaintiff's source of income.

2. On December 30, 2009, NYCHA sent Plaintiff a letter stating that her Section 8 voucher had been suspended for an indefinite period of time due to a lack of funding for the Section 8 program. This suspension only applied to individuals on the waitlist for Section 8 vouchers and those individuals, including Ms. Arem, who had been issued a voucher which had not yet been accepted by a landlord. Had the Defendants accepted Ms. Arem's voucher as they were legally obligated to do, Ms. Arem would not have been affected by NYCHA's suspension. Instead, the Defendants' actions have not only forced Ms. Arem to pay higher rent than she was legally entitled to pay since August 2009, but she is faced with paying this rent indefinitely until NYCHA lifts its suspension.

3. This complaint alleges that the Defendants committed source of income discrimination in violation of Section 8-107(5) of the Administrative Code of the City of New York when they refused to accept Ms. Arem's Section 8 voucher, a "lawful source of income."

JURISDICTION

4. This court has jurisdiction pursuant to New York C.P.L.R. §§ 301 & 3001.

VENUE

5. Venue is proper in this county pursuant to New York C.P.L.R. §§ 503(a) and (c) because the Plaintiff resides in Kings County and the Plaintiff's cause of action arose in Kings County.

PARTIES

6. Plaintiff Elena Arem is a disabled individual who resides in a one bedroom apartment at 2044 East 18th Street Apt. 3F, in Brooklyn, New York. Ms. Arem is a low-income tenant and lives alone, although home-care aides visit her daily. Ms. Arem is the mother of three adult sons who do not reside with her.

7. Defendant EDMD Realty is the owner of the premises located at 2044 East 18th Street in Brooklyn, New York, and maintains a principal place of business at 45 Fairfield Lane in New Hyde Park, New York. Based upon information and belief, the apartment building located at 2044 East 18th Street has approximately 43 apartments.

8. Defendant Maria Morawiec resides at 45 Fairfield Lane in New Hyde Park, New York and was at all times an officer or employee and authorized agent of EDMD Realty. EDMD Realty and Ms. Morawiec are collectively referred to as the “Defendants” in this complaint.

STATUTORY AND REGULATORY FRAMEWORK

SECTION 8 VOUCHER PROGRAM

9. The Section 8 Voucher Program (“Section 8”) was established by the Housing Act of 1937 to provide rent subsidies to lower income families and individuals so that they can obtain safe and affordable housing. 42 U.S.C. § 1437f. Participation is therefore restricted to such lower income individuals and families. *Id.* § 1437f(o)(4).

10. In New York City, NYCHA is one of two housing authorities who contract with the Department of Housing and Urban Development (“HUD”) to administer the Section 8 program. Once a tenant identifies an apartment whose rent falls within the fair market rent level established by HUD, the owner of that apartment enters into a Housing Assistance Payment

(“HAP”) contract with NYCHA. *See* 24 C.F.R. §§ 982.1(a)(2). NYCHA pays the landlord a portion of the monthly rent directly while tenants are typically responsible for contributing one-third of their monthly income towards the rent.

PROHIBITION ON DISCRIMINATION AGAINST LAWFUL SOURCES OF INCOME

11. On March 26, 2008, the New York City Council amended the New York City Human Rights Law, Section 8-101 *et seq.* of the Administrative Code of the City of New York, to prohibit landlords from rejecting or discriminating against otherwise eligible tenants based upon any “lawful source of income.”

12. Pursuant to the legislation, it is unlawful to discriminate “against any person ... because of any lawful source of income of such person ... in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith.” N.Y.C. Admin Code § 8-107(5)(a)(2).

13. “Lawful source of income” is defined as “income derived from... any form of federal, state or local public assistance or housing assistance including Section 8 vouchers.” *Id.* § 8-102(25). This prohibition against discrimination applies only to apartments located in buildings that contain at least six units. *Id.* § 8-107(5)(o).

FACTS

14. Plaintiff Elena Arem is a 52-year-old single woman who has multiple sclerosis, a permanent neurological disease that causes physical disabilities. Because of her condition, Ms. Arem is unable to walk without assistance and has two home health aides who assist her 7 days a week. She has been in the care of the Multiple Sclerosis Comprehensive Care Center at NYU Langone Hospital for Joint Diseases for several years. Moreover, Ms. Arem had back surgery in

late December 2009. Her mobility has thus been further impaired while she recovers and receives specialized care.

15. Ms. Arem has lived in Apartment 3F at 2044 East 18th Street in Brooklyn, New York for the past twenty-seven years.

16. Currently, Ms. Arem's only income is the \$761 she receives monthly through Social Security Disability ("SSD"). Because of her limited income, Ms. Arem has struggled to afford the monthly rent for her apartment of \$847.

17. Due to this financial situation, Ms. Arem fell behind in her rent in early 2009. As a result, in March 2009, she turned to CAMBA HomeBase, a homelessness prevention center in Brooklyn. With the help of CAMBA, Ms. Arem cleared her rental arrears in April 2009.

18. Since April 2009, CAMBA has been paying \$350 on a temporary basis to help Ms. Arem meet her monthly rent. Ms. Arem has also received assistance from New York City's Disability Rent Increase Exemption program (DRIE) which contributes \$497 towards her monthly rent.

19. On August 4, 2009, NYCHA issued a Section 8 rental voucher to Ms. Arem that she could apply toward her monthly rent. Ms. Arem intended this voucher to replace both the CAMBA and DRIE portions of her rental payments.

20. On the very same day that Ms. Arem received her voucher from NYCHA, Defendant Ms. Morawiec stopped by Ms. Arem's apartment to look at her refrigerator. Ms. Arem approached Ms. Morawiec and requested that Ms. Morawiec accept her voucher and sign the forms enabling the voucher to be used to pay her rent. Ms. Morawiec flatly refused to do so.

21. Ms. Arem then appealed to Nancy Negron ("Ms. Negron"), her caseworker at CAMBA for assistance. Ms. Negron spoke to Ms. Morawiec by phone on August 13, 2009 to

inquire as to why Ms. Morawiec would not accept Ms. Arem's Section 8 voucher. Ms. Morawiec replied that she would not sign the papers because she had just installed a new refrigerator in Ms. Arem's apartment and nobody would be paying for that appliance. Ms. Morawiec also stated that she would not accept the voucher because she would be forced to renovate the apartment to meet Section 8 Guidelines. Neither explanation cited by Ms. Morawiec provides a legitimate basis to refuse to accept Ms. Arem's Section 8 voucher.

22. Ms. Negron spoke by telephone with Ms. Morawiec again on September 18, 2009 and September 25, 2009. In both instances, Ms. Negron asked Ms. Morawiec to accept the Section 8 voucher, but Ms. Morawiec again refused. These refusals caused Ms. Arem to suffer substantial anxiety, stress and emotional distress given that she does not know how she will be able to afford her monthly rent on a permanent basis without the assistance of the Section 8 program.

23. On December 30, 2009, NYCHA sent Ms. Arem a letter informing her that her Section 8 voucher was suspended due to a lack of federal funding for the Section 8 program.

24. Upon information and belief, NYCHA's suspension only applied to individuals on the waitlist for Section 8 vouchers and those individuals, including Ms. Arem, who had been issued a voucher, but who had not yet had that voucher accepted by a specific landlord. Therefore, had the Defendants accepted Ms. Arem's voucher as they were legally obligated to do in August and September 2009, NYCHA would not have suspended Section 8 assistance to Ms. Arem.

25. Due to the discriminatory actions of the Defendants, since August 2009 Ms. Arem has been forced to pay higher rent than she was legally entitled to pay, and she is faced with paying this rent indefinitely until NYCHA lifts its suspension. Ms. Arem may now be unable to

afford the rent for the apartment that she has lived in since 1983 because the Defendants deprived her of the Section 8 assistance that she so desperately needs.

CAUSE OF ACTION

26. Plaintiff incorporates Paragraphs 1 through 25 of this Complaint as if fully set forth herein.

27. Under the New York City Human Rights Law, the Defendants are prohibited from discriminating against Ms. Arem based upon her source of income. N.Y. City Admin. Code §§ 8-101, 8-102 and 8-107, amended by N.Y.C. Council Int. No. 61-A (2008) (effective on March 26, 2008).

28. Defendants' conduct constitutes a refusal to rent or lease a housing accommodation or an interest therein based upon source of income, in violation of N.Y. City Admin. Code § 8-107(5)(a)(2), amended by N.Y.C. Council Int. No. 61-A (2008) effective on March 26, 2008).

29. Ms. Arem is an aggrieved person, as defined in New York City Administrative Code § 8-502(a), and has suffered damages as a result of the Defendant's discriminatory conduct.

30. Defendants' conduct was willful, intentional and made in disregard for the rights of others.

31. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff sustained the damages alleged herein.

32. Accordingly, Plaintiff is entitled to actual damages, punitive damages, and reasonable attorneys' fees and costs.

33. Pursuant to New York City Administrative Code Section 8-502(c), within ten days after commencement of this civil action, Plaintiff will serve a copy of the complaint upon representatives authorized by the New York City Commission on Human Rights and the Corporation Counsel to receive copies of complaints in actions commenced pursuant to the New York City Human Rights Law.

REQUEST FOR RELIEF


WHEREFORE, Ms. Arem respectfully requests judgment against the Defendants as follows:

- a. Declaring that Defendants' discriminatory practices have violated Section 8-107(5) of the Administrative Code of the City of New York by discriminating against Plaintiff based on her lawful source of income;
- b. Awarding such damages as will compensate Ms. Arem fully for her economic losses, as well as the humiliation, embarrassment, emotional distress and inconvenience that Ms. Arem has suffered due to the Defendants' discriminatory conduct, pursuant to New York City Administrative Code § 8-502;
- c. Awarding punitive damages to Ms. Arem pursuant to New York City Administrative Code § 8-502;
- d. Awarding Ms. Arem reasonable attorneys' fees, costs and expenses incurred in prosecuting this action pursuant to New York City Administrative Code § 8-502; and
- e. Granting Ms. Arem such other further relief as may be just and proper.

Dated: New York, New York

February 5, 2010

LATHAM & WATKINS LLP

By: 

David M. Brodsky
Nathanael Yale
Timothy Ho

885 Third Avenue
New York, NY 10022
Telephone: (212) 906-1200

Attorneys for Plaintiff

VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

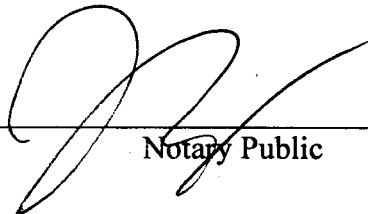
Nathanael Yale, being duly sworn, deposes and says:

Purusant to New York C.P.L.R. § 3020(d)(2), I have read the foregoing Verified
Complaint and know the contents thereof to be true to the best of my own knowledge.



Nathanael Yale

Sworn to before me this
5th day of February, 2010



Notary Public

JESSICA L. BENGELS
Notary Public, State of New York
No. 02BE6143492
Qualified in Queens County
Commission Expires April 10, 2010