

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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SULLIVAN PROPERTIES, L.P.,

Index No.:

Plaintiff,

VERIFIED

-against- COMPLAINT

BARIS DINCER,

Defendant.

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Plaintiff Sullivan Properties, L.P., by its attorneys, Ingram Yuzek Gainen Carroll & Bertolotti, LLP, as and for its Verified Complaint against Baris Dincer, alleges as follows:

PARTIES

1. Plaintiff Sullivan Properties, L.P. is a foreign limited partnership authorized to conduct business in the State of New York, with an address c/o Manhattan Skyline Management Corp., 103 West 55th Street, New York, New York 10018.
2. Upon information and belief, Baris Dincer is an individual who resides at 111 Sullivan Street, Apartment 2BR, New York, New York 10012

FACTUAL BACKGROUND

3. Plaintiff is the owner and landlord of the building located at 111 Sullivan Street, New York, New York.
4. Defendant is the tenant in possession of apartment 2BR in the Building (the “Premises”) pursuant to a written lease agreement dated December 30, 2019 by and between Plaintiff, as landlord, and Defendant, as tenant, for a term commencing January 1, 2020 and expiring December 31, 2020 (the “Lease”).

Relevant Lease Provisions

5. Article 10(A) of the Lease states, in relevant part: “[Defendant] will take good care of the [Premises] and not permit or do any damage to it...”
6. Pursuant to Article 12(E) of the Lease, Defendant should not do anything to “...interfere with or make [Plaintiff’s] efforts to provide [Defendant] and all other occupants of the building with required facilities and service.”
7. Article 13 of the Lease states, in relevant part:

As a tenant in the Building, [Defendant] will not engage in objectionable conduct. Objectionable conduct means behavior which makes or will make the [Premises] or the Building less fit to live in for [Defendant] or other occupants. It also means anything which interferes with the right of others to properly and peacefully enjoy their apartments, or causes conditions that are dangerous, hazardous, unsanitary and detrimental to other tenants in the Building. Objectionable conduct by [Defendant] gives [Plaintiff] the right to end this Lease. [Defendant] shall not make or permit any disturbing noises in the [Premises] or the Building or permit anything to be done that will interfere with the rights, comfort or convenience of other tenants...

8. Article 20 of the Lease states: "If [Defendant does] not do, or if [Defendant does] anything which shows that [Defendant] intend[s] not to do what [Defendant] have/has agreed to do, [Plaintiff] has the right to ask a Court to make [Defendant] carry out [his] agreement or to give the [Plaintiff] such other relief as the Court can provide. This is in addition to [other] remedies in...this lease."
9. Paragraph 6 of the Rules which are a part of the Lease states: "[Defendant]...shall not make or permit any disturbing noises in the [Premises] or the Building or permit anything to be done that will interfere with the rights, comforts or convenience of other tenants."
10. Paragraph 3 of the Smoke Free Lease Addendum states: "[Defendant] agrees and acknowledges that the premises to be occupied by [Defendant]...have been designated as a smoke-free living environment. [Defendant]...shall not smoke anywhere in the unit rented by [Defendant], or the building where the [Defendant's] dwelling is located or in any of the common areas or adjoining grounds of such building..."
11. Notwithstanding the foregoing Lease obligations, Defendant has been and continues to exhibit objectionable and dangerous conduct, and is otherwise acting in a manner that is contrary to that which is required under the Lease.

Defendant's Behavior Is Threatening

The Health, Safety and Well-Being of Building Residents

12. In late January 2020, Plaintiff learned that Defendant was throwing objects such as ice cubes, glassware and a coffee mug, out of one of the Premises' windows and into the shared courtyard. By letter dated January 28, 2020, Plaintiff put Defendant on notice that his behavior is egregious and places the safety of other tenants and staff in danger, and that if it happens again, the NYPD would be contacted to file a report.
13. On February 19, 2020, Plaintiff received three separate emails from Building residents informing Plaintiff that there was banging and hammering in the Premises, that neighbors have been yelling to get Defendant to stop but that the hammering got worse.
14. On February 20, 2020, Plaintiff sent a letter to Defendant informing him of the complaints Plaintiff received regarding "construction site" sounds emanating from the Premises, including an audio recording, and informing Defendant that his conduct is in violation of the 'Objectionable Conduct' clause in the Lease.
15. On March 28, 2020, the Building superintendent informed Plaintiff that Defendant had been drilling in the bathroom of the Premises, hitting one of the water lines and causing a major leak. The apartment beneath the Premises suffered extensive damage to its ceiling and the clothes of the tenant residing in that

apartment were damaged as well. The water valve in Premises had to be shut off pending a plumber coming to the Premises.

16. Also on March 28, 2020, Defendant sent an email alleging that he was ‘hanging a mirror in the bathroom and hit a pipe’. Plaintiff responded to Defendant informing him that his behavior reached the level of being harmful to other residents who are all sheltered in place.
17. In addition, on March 28, 2020, Plaintiff received an email from a building resident regarding Defendant hammering and using power tools in the Premises, as well as Defendant having left items in the hallway.
18. On March 29, 2020, Plaintiff received an email from a Building resident informing Plaintiff of Defendant’s disturbances for the month and a half prior, including “hammering, sawing, messing with his bathroom pipes”. The Building resident went on to inform Plaintiff that on March 28, 2020, the Building superintendent came to her apartment because Defendant was complaining of a leak coming from her apartment, and no leak was found. The next morning, on March 29, 2020, the Building resident found a substance on her front door that was oozing into her apartment that smelled like petroleum, which Building maintenance cleaned up. This resident also informed Plaintiff that there was a trail of cigarette butts going up the stairs to the fourth floor.
19. By email dated March 30, 2020, the Building superintendent sent photographs of the Premises to the Plaintiff, and advised Plaintiff that he had discovered that Defendant removed the medicine cabinet in the Premises bathroom by himself, opened the walls to find the leak by himself, and also provided photographs of the hole Defendant made in the water line.
20. By email dated March 31, 2020, the Building superintendent sent Plaintiff photographs of the damage to Apt. 1BR, the apartment below the Premises, as a result of the water pipe that Defendant punctured. On April 2, 2020, a Building resident emailed Plaintiff regarding his yelling interaction with Defendant about the noise from the Premises, and Defendant yelling back that he is building a bed. The resident threatened to call the Department of Buildings and have violations issued against Plaintiff as a result of Defendant’s unauthorized work.
21. On April 3, 2020, Plaintiff received an email from a Building resident chronicling noise that was heard emanating from the Premises, including: (a) March 29, 2020: Drilling and hammering after the flood Defendant caused; (b) April 1 – April 2, 2020: hammering and drilling at 1 a.m.; (c) April 2, 2020: hammering after 9pm – 10:30p.m., interrupted by having a screaming fight with a neighbor on the 4th floor who was complaining – screamed that he is building a bed; (d) met the neighbor, he asked what floor she was on and apologized for the noise – said he was hanging 2 chandeliers – and then followed her up the 2nd and 3rd floors.
22. Also on April 3, 2020, Plaintiff received an email from another Building resident regarding Defendant conducting work in the Premises without a permit, as well as Defendant’s smoking in the Premises causing the building to smell.
23. By email dated April 4, 2020, the Building superintendent sent photographs of cigarette butts in the Building’s interior staircase.
24. By emails dated April 11, 2020, a Building resident informed Plaintiff that Defendant splashed some liquid on her front door that smelled of cigarettes, and was also loudly blasting his TV for hours. This resident

informed Plaintiff that she feels unsafe in her home and is therefore going to leave her apartment to return to her mother in California, and as a result of the foregoing, she is refusing to pay rent.

25. In addition, that same resident's mother emailed Plaintiff on April 11, 2020 regarding her daughter's untenable living situation.
26. Other tenants in the Building sent emails to Plaintiff on April 11, 2020 – one confirming that Defendant left 'something' on another resident's door, and one indicating that the resident heard Defendant going to another resident's door and leaving something on her door, and one about Defendant's behaviors making all residents feel unsafe in their apartment
27. By email dated April 13, 2020, one resident's mother reiterated that her daughter is leaving the Building and going to California due to the circumstances with Defendant.
28. Another incident occurred during the night of April 15-16, 2020. Plaintiff received an email from Defendant informing Plaintiff that "someone" had broken his window. Yet, when viewing video footage from cameras that Plaintiff has installed on the exterior of the Building, it appears that Defendant was throwing eggs out of his window into the common courtyard. In fact, not only did Defendant break the window in the Premises, he also broke the window of apartment AF in the Building. The NYPD were called and a report taken.
29. On April 19, 2020, a resident informed Plaintiff that they heard Defendant coming down the stairs in the building and heard what sounded like him pouring some liquid on the door of apartment 3BR. Defendant was wearing a backpack and earbuds and seemed very calm. The resident did not feel safe engaging with Defendant and went back into their apartment.
30. On April 19, 2020, Plaintiff received an email from a resident that Defendant was blasting music in his apartment at 1:15 am. There were also sounds like Defendant was stripping plastic sheeting from something (maybe packaging), and the hallway reeked of cigarette smoke. At 3am the music was still blasting and Defendant was banging around in the hallway with a tape gun. He then slammed his door – twice in an hour's time.
31. That same day, at approximately 1:15 pm, Defendant began screaming that he'll kill the person throwing eggs at his window facing the courtyard.
32. At approximately 12:20 pm on April 21, 2020, a resident heard Defendant on a floor of the building above that where his Premises is. There was music blasting from his apartment but the resident heard him come upstairs. The resident later found a blue paper face mask draped on the stairs up to the 4th floor of the Building.
33. On April 27, 2020, Defendant had the door to his apartment wide open while another resident was taking out their trash out and the resident could smell that his apartment stunk from cigarette smoke even though the Building is a non-smoking Building. Defendant then started banging on the radiator.
34. On April 28, 2020, Defendant watched as a resident made several trips up and down the stairs. Each time the Defendant opened his door and watched the resident go upstairs. Defendant later began drilling and hammering in the Premises, and also what sounded like sawing into the walls in the Premises. When a resident later passed by the Premises, the resident saw that Defendant caused damage by drilling along the outside of the front door frame.
35. Plaintiff received an email from a Building resident informing of the most recent occurrences, and letting Plaintiff know that having lived in the Building for many years, the resident had never encountered a neighbor such as Defendant. The resident informed Plaintiff that the resident would not speak with Defendant because the resident has seen how hostile Defendant has been towards other tenants who have asked him to make less noise, and let Plaintiff know that the resident is genuinely concerned that Defendant will physically assault the resident or start vandalizing the door to the resident's apartment as he had done to another Building resident.
36. On or about April 29, 2020, Plaintiff discovered that electric wires to the newly installed security cameras outside of the Premises had been cut.
37. On May 5, 2020 at approximately 12:30 pm, Defendant began singing and screaming in the Premises.
38. On May 6, 2020, Defendant began drilling near the radiator in the Premises at approximately 10:20 am, and began singing and screaming at approximately 1:20 pm.
39. On May 7, 2020, a resident emailed Plaintiff and informed it that Defendant was screaming/singing at the top of his lungs and had been doing so for over an hour.
40. On May 8, 2020, a resident emailed the Building super to inform him that Defendant was drilling into his ceiling, and later in the day the resident informed the Building super that Defendant had been going on and off all day with the drilling and noise since 2:30 am.
41. Also on or about May 8, 2020, Plaintiff discovered that there was a second water leak into apartment 1BR.

42. On May 12, 2020 Defendant began drilling and hammering at 9 pm.
43. At midnight on April 13, 2020, Defendant was blasting his TV and banging. A Building resident emailed Plaintiff to inform it of the blasting of Defendant's music or TV, and that the resident could hear Defendant tearing up the walls in the Premises and slamming his door. The resident also informed Plaintiff that Defendant had been drilling and hammering overnight.
44. On May 20, 2020, the Building super went to Defendant's apartment to fix his broken window and a resident could hear him screaming that it is "MY HOME...you can't just come whenever!"
45. On May 21, 2020, Defendant was making loud noise at 2pm while throwing things out. At 5am there was smoke emanating from Defendant's apartment – as if he had been cooking something.
46. Again on May 22, 2020, Defendant was cooking something in his apartment causing smoke to fill the hallways. Plaintiff received complaints regarding the smoke incidents from at least two Building residents.
47. On May 24, 2020, a resident informed Plaintiff that there was water running in apartment 1BR. Plaintiff went into apartment 1BR and found that the apartment had been completely flooded – for a third time. Plaintiff learned that the cause of the flood was a puncture hold in the water main. The water in the entire Building had to be turned off for a period of time.
48. As a result of the flooding, the resident in apartment 1BR permanently vacated apartment 1BR in the Building – in the middle of her lease term – causing Plaintiff a loss of rental income.
49. When the Building porter went to the Premises and knocked on the door to come into the Premises about the flood, Defendant screamed that he was "only painting" and writing programs. He screamed that he was "very busy" and that there was "no drilling."
50. In the morning, Plaintiff received a complaint from a Building resident that the hallway reeked of denatured alcohol or paint thinner. The resident informed management that they are becoming increasingly concerned that Defendant is going to set the Building on fire given his smoking.
51. On May 27, 2020, a resident emailed Plaintiff about Defendant hammering in the Premises at midnight. While that resident was emailing Plaintiff, one of the lights in the resident's apartment went out – and the resident informed Plaintiff that the issue was not from the light bulb.
52. On May 29, 2020 at approximately 9:00 pm, a resident reported that Defendant began drilling in the Premises. From the sound and the vibration that the resident experienced, the resident believed that Defendant either drilled into the ceiling or hit a stud in the wall because the sound of grinding metal accompanied the drilling noise.
53. Not only is Defendant's behavior in contravention to his express obligations under the Lease - as well as human decency towards his neighbors - but, as evidenced by the plethora of correspondence both from Building staff and Building residents, has also caused residents to feel unsafe in their own homes.
54. Defendant's behaviors are preventing Plaintiff from providing for the health, safety and well-being of other residents in the Building – something to which each and every Building resident is entitled.

AS AND FOR A FIRST CAUSE OF ACTION

55. Plaintiff repeats and realleges each and every allegation set forth hereinabove as if more fully set forth herein.
56. There exists a justiciable controversy between Plaintiff and Defendant which is not conveniently amenable to conventional remedies, and to which Plaintiff has no adequate remedy or another form of action.
57. Article 20 of the Lease expressly permits Plaintiff to seek injunctive relief to compel Defendant to abide by his Lease obligations, to wit: behave in a manner that is not objectionable and does not threaten the health, safety and well-being of other residents in the Building. This right of Plaintiff's is in addition to any other remedies that Plaintiff may have under the Lease.
58. By reason of the foregoing, Plaintiff hereby request that this Court render a declaratory judgment setting forth the rights and obligations of the parties herein, including, but not limited to: (a) that Defendant must abide by the rules and regulations set forth in the Lease while residing in the Premises; and (b) Defendant may not engage in objectionable conduct that is detrimental to the health, safety and well-being of other Building residents, which include, but is not limited to: (i) smoking in the Building hallways and leaving cigarette butts in the hallways; (ii) conducting any sort of work in his apartment – construction or otherwise – that could damage the Building or any Building-wide systems; (iii) threatening other residents

in any manner, including, but not limited to, screaming at them or throwing liquid substances on their apartment doors and breaking apartment windows; and (iv) otherwise continuing his course of conduct that is endangering the health, safety and well-being of other residents at the Building.

AS AND FOR A SECOND CAUSE OF ACTION

59. Plaintiff repeats and realleges the allegations set forth hereinabove as if more fully set forth herein.

60. By reason of the foregoing, Plaintiff requests an injunction permanently enjoining Defendant: (a) to abide by the rules and regulations set forth in the Lease while residing in the Premises; and (b) from engaging in objectionable conduct that is detrimental to the health, safety and well-being of other Building residents, which include, but is not limited to: (i) smoking in the Building hallways and leaving cigarette butts in the hallways; (ii) conducting any sort of work in his apartment – construction or otherwise – that could damage the Building or any Building-wide systems; (iii) threatening other residents in any manner, including, but not limited to, screaming at them or throwing liquid substances on their apartment doors and breaking apartment windows; and (iv) otherwise continuing his course of conduct that is endangering the health, safety and well-being of other residents at the Building.

AS AND FOR A THIRD CAUSE OF ACTION

61. Plaintiff repeats and realleges the allegations set forth hereinabove as if more fully set forth herein.

62. By reason of Defendant's acts, as set forth herein, Plaintiff has been required to retain counsel to prosecute this action, and Defendant should be held liable for Plaintiff's attorneys' fees.

63. By reason of the foregoing, Plaintiff has been damaged in an amount to be determined at trial.

WHEREFORE, it is respectfully requested that this Court grant Plaintiff judgment as follows:

i. On the First Cause of Action, a declaratory judgment setting forth the rights and obligations of the parties herein, including, but not limited to: (a) that Defendant must abide by the rules and regulations set forth in the Lease while residing in the Premises; and (b) Defendant may engage in objectionable conduct that is detrimental to the health, safety and well-being of other Building residents, which include, but is not limited to: (i) smoking in the Building hallways and leaving cigarette butts in the hallways; (ii) conducting any sort of work in his apartment – construction or otherwise – that could damage the Building or any Building-wide systems; (iii) threatening other residents in any manner, including, but not limited to, screaming at them or throwing liquid substances on their apartment doors and breaking apartment windows; and (iv) otherwise continuing his course of conduct that is endangering the health, safety and well-being of other residents at the Building;

ii. On the Second Cause of Action, permanently enjoining Defendant: (a) to abide by the rules and regulations set forth in the Lease while residing in the Premises; and (b) from engaging in objectionable conduct that is detrimental to the health, safety and well-being of other Building residents, which include, but is not limited to: i) smoking in the Building hallways and leaving cigarette butts in the hallways; (ii) conducting any sort of work in his apartment – construction or otherwise – that could damage the Building or any Building-wide systems; (iii) threatening other residents in any manner, including, but not limited to, screaming at them or throwing liquid substances on their apartment doors and breaking apartment windows; and (iv) otherwise continuing his course of conduct that is endangering the health, safety and well-being of other residents at the Building;

iii. On the Third Cause of Action, in an amount to be determined at trial; and

iv. Such other and further relief that this Court deems just and proper.

Dated: New York, New York

June __, 2020

INGRAM YUZEK GAINEN
CARROLL & BERTOLOTTI, LLP
Attorneys for Plaintiff

By: _____
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VERIFICATION

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

PAUL REGAN, being duly sworn, deposes and states:

- 1. I am Associate General Counsel for Manhattan Skyline Management Corp., the managing agent for Sullivan Properties, L.P., the Plaintiff in this action. As such, I am familiar with the facts and circumstances regarding this matter.
- 2. I have read the annexed Complaint in its entirety, and can verify such as true, except as to those allegations which are made upon information and belief, and as to those I believe them to be true.
- 3. The basis and foundation of this verification is my personal knowledge together with the books, records and documents of Plaintiff and Manhattan Skyline Management Corp.

Paul Regan

Sworn to before me this

____ day of April, 2020.

Notary Public