



WAM Equity Partners L.P. v. Lyon

11 Misc.3d 134(A) (2006) | Cited 0 times | Appellate Terms of the Supreme Court of New York | March 28, 2006

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This opinion is uncorrected and will not be published in the printed Official Reports.

PRESENT: McCoee, J.P., Gangel-Jacob, Schoenfeld, JJ.

Order (Jean T. Schneider, J.), dated September 23, 2004, affirmed, with \$10 costs.

The holdover summary proceeding, founded upon allegations that tenant's "misuse" of his stove and other "objectionable conduct" caused a fire in the stabilized apartment on February 5, 2004, was properly dismissed on tenant's motion. The occurrence of the fire was insufficient to give rise to a possessory remedy based upon nuisance and/or malicious or grossly negligent conduct under 9 NYCRR 2524.3(b) (see *Vukovic v Wilson*, 245 AD2d 1 [1997]). Nor may landlord presently pursue a breach of lease claim, having failed to serve tenant with the requisite cure notice (see 9 NYCRR 2524.3[a]) specifying the conduct deemed to be "objectionable" pursuant to paragraph 12 of the governing lease agreement.

This constitutes the decision and order of the court.

I concur

