

38 A.D.3d 474

(Cite as: 38 A.D.3d 474, 833 N.Y.S.2d 428)

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Pinehurst Const. Corp. v. Schlesinger  
38 A.D.3d 474, 833 N.Y.S.2d 428  
NY,2007.

38 A.D.3d 474833 N.Y.S.2d 428, 2007 WL  
925631, 2007 N.Y. Slip Op. 02664

Pinehurst Construction Corp., Respondent  
v

Eva Schlesinger, Appellant, et al., Respondent.  
Supreme Court, Appellate Division, First Department,  
New York

March 29, 2007

CITE TITLE AS: Pinehurst Constr. Corp. v Schlesinger

#### HEADNOTE

Landlord and Tenant  
Rent Regulation  
Termination of Tenancy-Nuisance

Stephen H. Weiner, New York, for appellant.  
Borah, Goldstein, Altschuler, Nahins & Goidel,  
P.C., New York (Jeffrey R. Metz of counsel), for  
respondent.

Order of the Appellate Term of the Supreme Court  
of the State of New York, First Department, entered  
April 25, 2006, which affirmed a judgment of the  
Civil Court, New York County \*475 (Laurie L.  
Lau, J.), entered May 10, 2004, awarding possession  
of the subject apartment to petitioner landlord,  
unanimously affirmed, without costs.

Landlord's notice of termination alleged that it had  
received complaints from "other occupants of the  
building" that "at various times of the day and  
night" tenant had "create[d] loud banging noises"  
and yelled at, intimidated and verbally harassed  
"other persons in the building." Such allegations,

although setting forth no names, dates or specific  
instances of the misconduct, describe a nuisance in  
violation of Rent Stabilization Code (9 NYCRR) §  
2524.3 (b) (*see Domen Holding Co. v Aranovich*, 1  
NY3d 117, 124-125 [2003]) with sufficient detail to  
have allowed tenant to prepare a defense (*see City  
of New York v Valera*, 216 AD2d 237 [1995]) and  
otherwise satisfy the specificity requirement of  
Rent Stabilization Code § 2524.2 (b). Further in-  
formation, i.e., the written complaints referred to by  
landlord in its notice of termination, was appropri-  
ately provided in its bill of particulars (*see Valera*,  
216 AD2d at 238). A fair interpretation of the evi-  
dence supports Civil Court's findings, largely based  
on witness credibility, that tenant persistently  
"inflict[ed] vicious retribution" against the over-  
head tenants for "the slightest infraction of her  
rules" against noise by "screaming and pounding  
[the ceiling] throughout the night," interfering sub-  
stantially with the overhead tenants' comfort, safety  
and ordinary use and enjoyment of their apartment  
(*see Thoreson v Penthouse Intl.*, 80 NY2d 490, 495  
[1992]). We have considered tenant's other argu-  
ments, including those related to her unsigned,  
posttrial order to show cause seeking to reopen the  
trial, and find them unavailing. Concur-Andrias,  
J.P., Friedman, Buckley, Sweeny and Catterson, JJ.  
[See 12 Misc 3d 26 (2006).]

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NY,2007.

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