Fulton County Superior Court
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Date: 4/13/2022 10:49 AM
Cathelene Robinson, Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

METRO PROPERTIES ACQUISITION GROUP, LLC,	)	
	)	CIVIL ACTION FILE
Plaintiff,	)	No. 2022CV362673
v.	)	
MPR HOLDINGS, LLC, STAYCE ROBINSON, AND JOHN ROBINSON	)	
Defendants.	)	

ORDER GRANTING PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND INTERLOCUTORY INJUNCTION

The above-styled case is before the Court on Plaintiff Metro Properties Acquisition Group, LLC's *Motion for Temporary Restraining Order and Interlocutory Injunction* ("Motion") filed on March 28, 2022. On April 11, 2022, the Court held a hearing on Plaintiff's Motion at the time which counsel for all parties was present. Upon consideration of the pleadings, the entire record, the applicable authority, and argument of counsel, the Court hereby makes the following findings of fact and conclusions of law and, for the reasons discussed below, **GRANTS** Plaintiff's Motion and **ORDERS** as follows:

Plaintiff sought a temporary protective order seeking to regain possession of the premises it leased located at 345 Edgewood Avenue, Atlanta, Georgia 30312 (hereinafter, the "premises") after the Defendant MPR Holdings, LLC (herein after, "Defendant MPR") re-entered the premises, removed Plaintiff, and regained possession of the premises. Defendant MPR based its removal of Plaintiff on Plaintiff's failure to provide proof of the required comprehensive insurance for the

premises after Defendant MPR had provided Plaintiff with the requisite written notice pursuant to the Default clause in the lease agreement.

Under Georgia law, it is well settled that an interest in real property is sufficiently unique to entitle a party to equitable relief. See Focus Entm't Int'l, Inc. v. Partridge Greene, Inc., 253 Ga. App. 121, 127 (2001) ("when an interest in land is threatened with harm, equitable injunctive relief is appropriate, because such harmed is deemed to be irreparable to the unique character of the property interest..."). Previously, Georgia courts have held that a landlord may contract to avoid the statutory notice and other requirements of dispossessory proceedings set forth in O.C.G.A. §44-7-50 et seq. when renting property which is not to be used as a dwelling place. Rucker v. Wyn*n*, 212 Ga. App. 69, 441 S.E.2d 417 (1994), (overruled in part by George v. Hercules Real Estate Servs., 339 Ga. App. 843, 795 S.E.2d 81 (2016)) (citing Colonial Self Storage &c. v. Concord Properties, 147 Ga. App. 493, 495 (249 S.E.2d 310) (1978)); see Hardwick, Cook, & Co. v. 3379 Peachtree, Ltd., 363 S.E. 2d 31, 184 Ga. App. 822 (1987). More recently, however, Georgia courts have held that where a landlord evicts a tenant without properly filing a dispossessory action and obtaining a writ of possession, or without following the proper dispossessory procedures, the landlord may be liable in tort for wrongful eviction and trespass. See e.g. Swift Loan & Fin. Co., Inc. v. Duncan, 195 Ga. App. 556, 557 (1990) (affirming jury verdict against commercial landlord on tenant's trespass claim where tenant was not dispossessed of the property pursuant to an action filed under O.C.G.A. § 44-7-50); Steed v. Fed. Nat. Mortgage Corp., 301 Ga. App. 801, 805 (2009) ("a landlord who forcibly evicts a tenant without filing a dispossessory action and obtaining a writ of possession is subject to damages in tort for the wrongful eviction").

In addition to the fact that Defendants engaged in a self-help eviction without initiating a dispossessory proceeding, this Court finds that Defendants failed to comply with the strict terms of the lease in retaking possession of the premises. Specifically, Defendants sent notice of certain alleged defaults to Plaintiff on January 27, 2022, and then locked Plaintiff out of the Premises on February 26, 2022. The lease requires a minimum of thirty (30) days' notice of a nonmonetary default prior to Defendants obtaining any relief. In addition, the Lease provides for a sixty (60) day cure period for all nonmonetary defaults. It states:

> [i]f the default cannot reasonably be cured within 30 days, Lessee shall not be in default of this Lease, if Lessee commences to cure the default within the 30-day period and diligently and in good faith continues to cure the default; provided, however, that in no event shall such cure period extend beyond sixty (60) days after the date of such notice.

Lease § 20 (ii). As the Defendants initiated the self-help eviction prior to the expiration of the sixty (60) day cure period, this Court finds that Defendants failed to provide Plaintiff with a sufficient opportunity to cure the noticed nonmonetary defaults. Accordingly, the eviction was premature and illegal.

Defendants are hereby ordered to immediately return possession of the premises, located at 345 Edgewood Ave SE, Atlanta, GA 30312 and 347 Edgewood Avenue SE, Atlanta, GA 30312 to Plaintiff. Defendants are further ordered and directed to return all property removed from the premises to the premises, as it were prior to removal, within seven (7) days of the date of this Order at Defendants' own cost. In addition, Defendants must pay all necessary costs incurred by Plaintiff required to restore Plaintiff to full possession and normal business operation.

Plaintiff is hereby ordered to provide proof of all current insurance policies for the premises within fourteen (14) days of the date of this Order. Furthermore, Plaintiff shall not engage in the sale of all alcoholic beverages until the City of Atlanta issues a 2022 alcohol license. Nothing

contained in this Order should be construed as to prevent Defendants from filing or otherwise initiating a dispossessory action against Plaintiff.

SO ORDERED this 13th day of April, 2022.

URAL GLANVILLE, JUDGE
Fulton County Superior Court
Atlanta Judicial Circuit