

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS:

HOUSING COURT DEPARTMENT
CENTRAL DIVISION
NO. **24SP2460**

**THE COMMUNITY BUILDERS, INC., AS LESSOR/OWNER AND AS MANAGING
AGENTS FOR PLUMLEY VILLAGE**

Plaintiff¹

VS.

NICOLE MATOS

Defendant²

FINDINGS OF FACTS, RULINGS OF LAW AND ORDER OF JUDGMENT

This matter came before the Court on April 22, 2025, for trial based on a 30-Day Fault Notice to Quit. The Plaintiff alleged the Defendant materially breach her subsidized lease when she allowed her guests or visitors, and members of her household, to engage in criminal activity while on the premises. All parties appeared for trial represented by counsel. Based upon all the credible testimony and evidence presented at the motion hearing, and the reasonable inferences drawn therefrom, the Court finds as follows.

The Plaintiff (**Plumley Village**) manages and owns the property known as Plumley Village. Ms. Matos has resided at 8 Laurel Street, Apartment 2, Worcester, MA (**Premises**) with her four minor children (ages 15, 8, 7 and 5) for over twelve years. Ms. Matos resides on the premises pursuant to a federally subsidized lease as administered by the Department of Housing and Urban Development (**HUD**). (**Exhibit 1**). On February 1, 2024, Ms. Matos signed an extension of her tenancy to end on January 31, 2025. (**Exhibit 1**).

The sections setting forth the tenants' responsibilities are contained in paragraph 13 (General Restrictions) of the lease. Under the terms of the lease, a tenant may not engage in or permit unlawful activities in the unit, in the common areas or on the project grounds. (See ¶13(c) of **Exhibit 1**). Paragraph 3(e) prohibits the tenants from permitting any excessive noise, other activity or other activity that interferes with the quiet enjoyment of other residents. (**Exhibit 1**). The lease further provides that the landlord may terminate the tenancy if a tenant, member of their

¹ As used herein, the term "Plaintiff" refers to all persons identified in the caption on the line marked "Plaintiff."

² As used herein, the term "Defendant" refers to all persons identified in the caption on the line marked "Defendant." Defendant may also be referred to as Ms. Matos.

household, guest, visitor or other acting under their control engages in criminal activity that threatens the health, safety or quiet enjoyment of the premises, other residents or landlord's employees residing on the premises. (See **Exhibit 1, ¶ 23(c)(6)**). Paragraph 23(c)(10) provides that the landlord may terminate the tenancy if the tenant, members of her household, guests or visitors or other persons under the tenant's control has engaged in criminal that resulted in the arrest or convicted for such activity. (**Exhibit 1**).

Elvin Cartagena, Sr., (**Mr. Cartagena**) is the father of all the children. Ms. Matos works, and her mother watches the children on her behalf. Mr. Cartagena is a recovering addict and is prescribed suboxone as of January of 2024. Mr. Cartagena does not reside at the premises. The Plumley Village served Mr. Cartagena with a Notice of Trespass on November 13, 2020, through their attorney. (**Exhibit 3**). Ms. Matos did not consent to the issuance of a No Trespass on Mr. Cartagena, with whom she maintains a relationship. Plumley Village has never obtained relief in a Court to bar Mr. Cartagena from the premises. G.L. c. 121B §32C.

On February 26, 2024, the Worcester Police Department arrested and charged Mr. Cartagena with Possession of a Class B Substance, Subsequent Offense (G.L. c. 94C §34) and Trespass. (G.L. c. 266 §20). (**Exhibits 4, 6**). Mr. Cartagena was arraigned in the Worcester District Court on February 27, 2025. (**Exhibits 4, 6**). On February 26, 2024, Mr. Cartagena was in the parking lot of the property with Ms. Matos cleaning out his car, when he was arrested by the Worcester Police Department. (**Exhibits 8, 9**). Mr. On September 11, 2024, Mr. Cartagena plead guilty to Trespass. (**Exhibits 5, 6**). The Commonwealth dismissed the Possession of Class B Substance without prejudice as Mr. Cartagena had a prescription for suboxone. (**Exhibits 5, 6**).

On March 18, 2024, Plumley Village received complaints regarding Ms. Matos' son lighting fires in the basketball courts area over the weekend of March 16, 2024. Grainy video surveillance showed several unidentified young men on a basketball court. (**Exhibit 7**). Officer Patrick Harrington, of the Worcester Police Department identified Ms. Matos' son from video surveillance. No charges were filed for starting a fire.

On April 9, 2024, Plumley Village caused to be served a Notice to Quit on Ms. Matos. (**Exhibit 2**). Ms. Matos did not challenge the receipt or sufficiency of the Notice to Quit. The Plaintiff established a prima facie case for possession.

RULINGS OF LAW

Given the credible evidence, the Court finds the Plaintiff failed to prove by a preponderance of the evidence that the Defendant violated a material term of the tenancy agreement. *See Spence v. Gormley*, 387 Mass. 258 (1982); and *Hodes v. Bonefont*, 401 Mass. 693 (1987). Despite the testimony of Officer Harrington, the Court could not determine by a preponderance of the evidence that Ms. Matos' son started the fire. Although her minor son may have been present during the incident of March 16, 2024, it was difficult to discern from the video which individual initiated the fire and extinguished the fire. The charge of possession of controlled substance was dismissed in the criminal case leaving only a guilty plea for trespassing.

To be responsible for trespass, a party must without right, enter and remain in a dwelling, building, boat or improved or enclosed land; and at the time of such entry, said individual was forbidden to enter or to remain there by the person in lawful control of the premises, either directly or by means of posted notice. *See* G.L. c. 266 §120; *See also Commonwealth v. Richardson*, 313 Mass. 632, 637 (1943). Additionally, the law does not give the Plaintiff the unilateral right to impose a No Trespass against a third party over the objection of the tenant. *Id.*

In the present matter, the Plaintiff should have sought injunctive relief against Mr. Cartagena per G.L. c. 121B §32C (**the Statute**). The statute applies to the Plaintiff. G.L. c. 121B §32B. To prevent Mr. Cartagena's presence on the property, the Plaintiff could have filed a civil action setting forth with particularity the reasons the factual basis for claims that his presence on the property pose a serious threat to the health and safety of others.³ The Court could issue injunctive relief barring him from the premises in accordance with the requirements of the Statute. Despite his guilty plea in the criminal matter, the plea of guilty for trespass in a dispositive in the current matter. Ms. Matos invited Mr. Cartagena on to the premises, he could not be held liable as a trespasser over her objections absent a Court order barring him from the premises with the facts in this case.

Equitable principles generally disfavor forfeiture but in the present case. *See Howard D. Johnson Co. v. Madigan*, 361 Mass. 454 (1972). Given the totality of the evidence and the facts as presented in this case, the Court must enter judgment for the Defendant

³ Given the familial relationship between Mr. Cartagenas and Ms. Matos, father to her children, a landlord cannot unilaterally interfere in the familial relationship absent Court intervention.

ORDER OF JUDGMENT

Based upon all the credible testimony and evidence presented at trial, it is **ORDERED** that:

1. Judgment shall enter for the Defendant for possession.

SO ORDERED.

June 16, 2025



SERGIO E. CARYAJAL
FIRST JUSTICE