

Case Name: Nashua-Oxford-Bay Associates, L.P. d/b/a Bay Ridge at Nashua v. Nour Al Assad, Farres Alkhayer

Case Number: 459-2022-LT-00671

LANDLORD TENANT NOTICE OF HEARING

If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.

Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625:11, V in a courtroom or area used by a court.

October 31, 2022

Sherry L. Bisson
Clerk of Court

(99)

C: Nour Al Assad, Arthur O. Gormley, III, ESQ

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

9th Circuit - District Division - Nashua
30 Spring Street, Suite 101
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.nh.gov>

November 21, 2022

**FARRES ALKHAYER
18 CHADWICK CIRCLE APT L
NASHUA NH 03062**

**Case Name: Nashua-Oxford-Bay Associates, L.P. d/b/a Bay Ridge at Nashua v. Nour Al
Assad, Farres Alkhayer
Case Number: 459-2022-LT-00671**

Enclosed please find a copy of an Order issued by the Court on November 21, 2022.

**Sherry L. Bisson
Clerk of Court**

(976)

C. Nour Al Assad, Arthur O. Gormley, III, ESQ

THE STATE OF NEW HAMPSHIRE

JUDICIAL BRANCH

https://www.courts.nh.gov

Court Name: 9th Circuit - District Division - Nashua

Case Name: Nashua-Oxford-Bay Associates, L.P. d/b/a Bay Ridge at Nashua v. Nour Al

Case Number: Assad, Farres Alkhayer

459-2022-LT-00671

LANDLORD AND TENANT JUDGMENT

On November 15, 2022, a hearing was held on the above entitled matter.

I. APPEARANCES

The landlord(s):

- Appeared pro se
[X] Appeared by Attorney Arthur O. Gormley, III
[X] Appeared by Krista Smithurst an authorized representative
[X] approved [] not approved by the court
[] Failed to appear. CASE DISMISSED.

The tenant(s):

- [X] Appeared pro se - Farres Alkhayer
[] Appeared by Attorney
[] Appeared by an authorized representative
[] approved [] not approved by the court

After hearing the evidence presented, the Court finds and rules as follows:

II. ELEMENTS OF POSSESSORY ACTION

A. Property

The landlord seeks possession of the following property: 15 Chadwick Circle, #C, Nashua, NH

The landlord [] has [X] has not proven that the landlord is the property's owner, lessor, or purchaser at a foreclosure sale.

The property in question [X] is [] is not subject to the jurisdiction of this Court under RSA 540.

The property in question is a [X] restricted [] non-restricted property within the meaning of RSA 540:2. (Non-restricted property is: 1) a property rented for non-residential purposes; 2) a single family house, if the owner of the house does not own more than 3 single family houses at any one time; 3) a rental unit in an owner-occupied building containing a total of 4 dwelling units or fewer; and 4) a single family house acquired by a bank or other mortgagee through foreclosure. All other residential property is restricted property.)

B. Eviction Notice and Demand for Rent (if applicable)

The landlord [X] did [] did not properly serve a written eviction notice on the tenant. (RSA 540:5: Eviction notices must be served upon the tenant personally or left at the tenant's place of abode. For commercial property, if the notice is left at the rented premises (rather than given in hand or served on the tenant or registered agent's personal abode), notice must also be sent by certified mail to the tenant's last known address or registered agent.)

The eviction notice was served on 9/9/22 (date) with an expiration date of 10/9/22 (date) which [X] was [] was not sufficient notice pursuant to RSA 540:3.

RSA 540:3, I - non-residential tenants: Non-payment - 7 days. Other reasons - the lesser of 3 months or the rent period.

RSA 540:3, II - residential tenants: Non-payment, substantial damage, and behavior affecting health and safety - 7 days. Other reasons - 30 days.

LANDLORD AND TENANT JUDGMENT

- The eviction notice did did not state the reason for the eviction with specificity.
- The eviction notice did did not contain all information required by the Court's Eviction Notice.
- If the eviction is based on non-payment of rent:
- The eviction notice did did not inform the tenant of the right to avoid eviction by paying all rent in arrears and liquidated damages.
- The landlord did did not serve a demand for rent on the tenant.
- The demand for rent was was not served at a time when rent was due or in arrears.
- The landlord has has not proven that the amount of rent demanded in the eviction notice/demand for rent is not a greater sum than the whole rent in arrears when the demand was made.
- The tenant has has not proven that the tenant paid the landlord all rent due and owing plus other lawful charges contained in the lease, \$15 liquidated damages, and any filing fee and service charges incurred by the landlord prior to the hearing on the merits.
- The tenant has has not avoided an eviction for nonpayment of rent by use RSA 540:9 three or more times within the last twelve months.

C. Basis of Eviction

The landlord has has not proven the tenant(s) is/are in possession of the property without right because:

Restricted Property

- The tenant(s) have failed to pay the required rent.
- The tenant(s) or tenant's household or guests have caused substantial damage to the premises.
- The tenant(s) have failed to comply with a material term of the lease.
- The tenant(s) have engaged in behavior that adversely affects the health or safety of others; or
- Other good cause, specifically:

Other statutorily authorized cause, specifically:

Non-Restricted Property

- The tenant(s) have failed to pay the required rent.
- The landlord has proven the reason stated in the eviction notice:

which is valid under the parties' rental agreement (if any) and is not otherwise prohibited by applicable law.

LANDLORD AND TENANT JUDGMENT

III. LANDLORD'S CLAIM FOR UNPAID RENT AND TENANT'S CLAIM OR COUNTERCLAIM

(The tenant may only make a claim or counterclaim if the landlord has requested damages for unpaid rent.)

The landlord has has not made a claim for damages for unpaid rent.

If the landlord has made a claim for damages for unpaid rent:

The landlord has proven that the total amount of rent in arrears is \$ _____

The landlord has not proven the amount of rent in arrears.

The tenant has has not made a claim or counterclaim against the landlord. Specifically, the tenant claims:

The tenant has proven the claim or counterclaim and is entitled to damages in the amount of \$ _____

The tenant's damages do do not equal or exceed the amount of rent in arrears. (If the amount owed by the landlord to the tenant is equal to or exceeds the amount of unpaid due, the court must grant judgment to the tenant and award monetary damages for the amount of any claim in excess of the unpaid rent.)

IV. TENANT'S DEFENSES (if applicable)

The tenant has raised the defense(s) of:

Violation of Fitness for Habitability

RSA 540:13-d: It is an affirmative defense to eviction for non-payment from a residential premises that the premises "is in substantial violation of the standards of fitness for health and safety, and the violation materially affects the habitability of the premises." The tenant must prove, by clear and convincing evidence, that the tenant notified the landlord/landlord's agent of the violation while not in arrears on rent and, by a preponderance of the evidence, that: 1) the landlord failed to correct the violations within 14 days or as promptly as conditions required; 2) the violation was not caused by the tenant, member of the tenant's family, or a guest; and 3) the repairs have not been prevented by extreme weather or the tenant's failure to allow reasonable access to the premises.

Retaliation

RSA 540:13-a: A tenant who is less than one week in arrears on rent may defeat an eviction that the tenant proves is in retaliation for: 1) reporting a violation of RSA 540-A or an unreasonable and substantial violation of applicable regulations or housing codes to a regulatory authority; 2) for initiating in good faith an action under RSA 540-A or raising a defense of violation of fitness for habitability; or 3) meeting or gathering with other tenants for a lawful purpose. In certain cases, there is a rebuttable presumption that an eviction is retaliatory. If the tenant succeeds in proving retaliation, the court may award statutory damages not exceeding three month's rent to the tenant. The tenant need not plead or prove such damages.

Landlord's Unqualified Acceptance of Rent after Eviction Notice Created New Tenancy

A landlord's unqualified acceptance of rental arrearages after service of an eviction notice creates a new tenancy. While the possessory action is pending, however, the landlord may accept payment of the rental arrearage without creating a new tenancy, provided that the landlord informs the tenant in writing of the landlord's intention to proceed with the eviction in spite of the landlord's acceptance of the payment. RSA 540:13, VII: A landlord's unqualified acceptance of future rent may create a new tenancy unless the court finds evidence, such as a written notice that acceptance of rent did not create a new tenancy, that the landlord intended to continue with eviction proceedings despite accepting new rent.

Tenant's Payment of Landlord's Utility Bills

RSA 540:2, VI: If the tenant was forced to take over payment for utility service which the landlord agreed to provide, the tenant may not be evicted for non-payment if the tenant proves the amount paid to maintain the utility service exceeds the amount of rent in arrears.

LANDLORD AND TENANT JUDGMENT

Landlord Refused to Accept Voucher for Payment or Provide Information so Tenant Could Obtain Voucher

RSA 540:9-a. If the tenant obtains rental assistance from a town welfare office, government agency, or non-profit which distributes state or federal funds, the tenant may present the organization's written promise to pay rent on the tenant's behalf to the landlord. Presentation of the voucher constitutes payment by the tenant of the amount listed in the voucher. It is an affirmative defense to eviction based on non-payment that the tenant tendered a voucher before the expiration of the eviction notice and the landlord refused to accept it or that the tenant could have tendered a timely voucher but for the landlord's refusal to provide ordinary and reasonable verification of rental information requested by the organization. However, a landlord is not obligated to accept a partial payment from a rental assistance organization or payments tendered after the expiration of the eviction notice.

Other (specify)

The tenant has has not proven the defense(s) raised at the Court. *One side that even if it found the tenant could be concerning the claim is retaliating he has not shown the records of the defense.*

V. ADDITIONAL FINDINGS

The Court further finds as follows

See attached further findings

VI. JUDGMENT

Judgment is awarded to the landlord tenant

Damages in the amount of \$ _____ (no more than \$1,500, except for retaliatory eviction cases) and costs in the amount of \$ _____ are awarded to the landlord tenant.

VII. DISCRETIONARY STAY

Issuance of the Writ of Possession is stayed until 11-15-22 (no more than 3 months from date of judgment) pursuant to RSA 540:13-c. The stay is dependent upon the tenant's payment of weekly rent of \$ 350.46 to the landlord, beginning on 11-28-22 (date) by 5:00 PM (time) and every Monday (day of week) thereafter by 5:00 PM (time). Failure to pay the weekly rent shall result in the issuance of Writ of Possession unless the tenant has filed a timely appeal.

LANDLORD AND TENANT JUDGMENT

Writ of Possession will issue on the eighth calendar day from the date of the notice of judgment, unless the tenant:

A. Files a Notice of Intent to Appeal with the Circuit Court within 7 days;

B. Completes a Supreme Court appeal within 30 days; and

C. Pays rent:

EVICTON FOR NON-PAYMENT To the Court in the amount of \$ _____ per week, beginning on the date the Notice of Intent to Appeal is filed.

ALL OTHER EVICTIONS To the landlord Court as it becomes due from the date the Notice of Intent to Appeal is filed.

SEE APPEAL INFORMATION ON PAGE 6

Other: _____

See attached further orders

Recommended:

Date: _____

Signature of Referee/Hearing Officer: _____

Printed Name of Referee/Hearing Officer: _____

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the referee/hearing officer.

Date: 11-21-22

Signature of Judge: 

Beth H. Kissinger

Printed Name of Judge

Notice of Judgment to parties:

Given in hand to parties on: _____

Mailed to parties on: 11/21/22

Writ of Possession to be issued on: 1/15/23

(976)

C. Nashua-Oxford Bay Associates, L.P. d/b/a Bay Ridge at Nashua; Nour Al Assad; Arthur O. Gornley, III, ESQ.; Farres Alkhayer

LANDLORD AND TENANT JUDGMENT

APPEAL INFORMATION

THE JUDGMENT IN A LANDLORD/TENANT ACTION MAY BE APPEALED ON QUESTIONS OF LAW TO THE SUPREME COURT BY EITHER PARTY. PLEASE NOTE THE FOLLOWING:

- Within seven days after the date of the Notice of Judgment, the party appealing must file with the Circuit Court a Notice of Intent to Appeal to the Supreme Court (NHJB-2085-D). Post-trial motions will not extend the seven-day period to file the Notice of Intent to Appeal. If the seventh day falls on a day when the Court is closed, the Notice of Intent to Appeal is due on the next day the Court is open.
- Within thirty days after the date of the Notice of Judgment, the party appealing must file a Notice of Appeal (NHJB-2297-SUP) with the Supreme Court, unless a timely post-trial motion is filed. The Supreme Court requires appeals to be filed electronically. See the Supreme Court's website www.courts.nh.gov/our-courts/supreme-court for more details.

IF EVICTION IS BASED ON NON-PAYMENT OF RENT AND THE TENANT APPEALS:

- The tenant must pay one week's rent, as determined by the Court, to the Circuit Court at the time when the Notice of Intent to Appeal is filed.
- While the appeal is pending, the tenant must continue to pay rent into the Court each week. Rent is due on the same day of the week on which the Notice of Intent to Appeal was filed. If rent is due on a day when the clerk's office is not open for business (for example, due to a holiday), then the payment is due on the next day the clerk's office is open.
- If rent is not paid by any due date, the court will immediately mail a Notice of Default to the tenant and issue a Writ of Possession to the landlord.
- The Writ of Possession will be recalled and the appeal reinstated if the tenant pays to the Court, prior to the service of the Writ of Possession by the sheriff, the entire balance of rent due since the filing of the Notice of Intent to Appeal.
- Unless the appeal is reinstated, the Circuit Court shall vacate the appeal and award the landlord the rent money that has been paid into the court.
- Money paid into the Circuit Court will be divided between the landlord and tenant based on the amount of rent that is found to be due and owing following the appeal. While the appeal is pending, the landlord may file a motion requesting that rent paid to the Court be distributed to the landlord. The Court will grant such a motion unless the tenant objects and the Court finds that the landlord is not entitled to the full amount of rent.

IF EVICTION IS BASED ON ANY OTHER REASON AND THE TENANT APPEALS:

- The tenant shall pay into Circuit Court or the landlord, as ordered by the Court on Page 4, all rent that becomes due from the date the Notice of Intent to Appeal is filed with the Circuit Court.
- When the final decision on appeal is rendered by the Supreme Court, any rent paid into the Circuit Court will be divided between the landlord and tenant based upon the finding of the rent actually due.

**FORMS RELATED TO APPEALS MAY BE FOUND AT THE COURT HOUSE
OR ON THE COURT'S WEBSITE:**

WWW.COURTS.NH.GOV/OUR-COURTS/CIRCUIT-COURT/DISTRICT-DIVISION/FORMS

THE STATE OF NEW HAMPSHIRE

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http://www.courts.state.nh.us

RECEIVED
NH CIRCUIT COURT
9TH DISTRICT NASHUA

Court Name: 9th Circuit - District Division - Nashua

2022 NOV 28 P 4:04

Case Name: Nashua Oxford Bay Associates, LP v/ba Baybridge at Nashua v. Nour Alkhalaf, Faris Alkhalaf

Case Number: 459-2022-LT-00671
(if known)

MOTION: For Reconsideration

I, Faris Alkhalaf

state the following facts and request the following relief:

I raised a defence of Violation of Fitness and Habitability, NOT Retaliation, and I've attached documentation from the CDC and Massachusetts Fire Department proving that neglecting by plaintiff of wants, smoking Marijuana is a) breach of contract, b) Negative Smoking health hazard, and c) a fire risk to tens of tens of people. Also attached 1) emails proving I notified plaintiff of the violation, not wa at even months before I withheld rent, 2) a link to private binder containing videos showing my neighbours at apt H smoking Marijuana on their balcony (as recently as Nov 4th, 2022, although they mostly smoke indoors, so 3) the plaintiff failed to correct the violation and Kuster Smithers denied during the court hearing that smoking inspections are yet to come. No weather conditions would prevent corrections all that time, furthermore, plaintiff seems to have failed to serve my Co-defendant the eviction notice as they know she moved out months ago, but she still moves their mail to my address. I request reversal of judgment by court, and court order the plaintiff to evict tenants at apt H.

Date 11/28/2022

Signature

Telephone (603) 718-3523

Address 18 Chadwick Cir Apt L Nashua NH 03062

I certify that on this date I provided a copy of this document to Arthur Gornley (other party) or to (other party's attorney) by Hand-delivery OR US Mail OR

E-mail (E-mail only by prior agreement of the parties based on Circuit Court Administrative Order)

11/29/2022

Date

Signature

ORDER

Motion granted

Motion denied. The Court reviewed the notes of the hearing and the basis of the objection was unclear. That said, even if it were a violation of Fitness and Habitability, it is not Retaliation. Mr. Alkhalaf did not

Date

Signature of Marital Master/Referee

Sansky, the elements of it at the hearing. The Court

Printed Name of Marital Master/Referee

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

12-8-22

Date

Signature of Judge

Beth H. Kissinger

Printed Name of Judge

Link to Private Folder

https://drive.google.com/drive/folders/1fpki0Wq1YGC5PVq_d_6s54nqg_eUXUB1?usp=sharing



Marijuana and Family Health

Secondhand Marijuana Smoke

The known risks of secondhand exposure to tobacco smoke—including risks to the heart and lungs—raise questions about whether secondhand exposure to marijuana smoke causes similar health risks. Secondhand marijuana smoke contains many of the same toxic and cancer-causing chemicals found in tobacco smoke and contains some of those chemicals in higher amounts.¹

Secondhand marijuana smoke also contains tetrahydrocannabinol (THC), the compound responsible for most of marijuana's psychoactive effects (or the "high"). THC can be passed to infants and children through secondhand smoke, and people exposed to secondhand marijuana smoke can experience psychoactive effects, such as feeling high.^{3,4} Recent studies have found strong associations between reports of having someone in the home who uses marijuana (e.g., a parent, relative, or caretaker) and the child having detectable levels of THC.^{5,6} Children exposed to THC are potentially at risk for negative health effects. More research is needed to understand how secondhand marijuana exposure may affect children. Other research shows that marijuana use during adolescence can impact the developing teenage brain and cause problems with attention, motivation, and memory.⁶ To learn more about the long-term effects of marijuana use, please visit the health effects section.

More research about the effects of marijuana secondhand smoke is still needed.

Learn More:

What You Should Know About Using Cannabis, Including CBD, When Pregnant or Breastfeeding | FDA [↗](#)

References

1. Alberg AJ, Shupland DR, Cummings KM. The 2014 Surgeon General's Report commemorating the 50th Anniversary of the 1964 Report of the Advisory Committee to the US Surgeon General and updating the evidence on the health consequences of cigarette smoking. [↗](#) *American Journal of Epidemiology*. 2014;179(4):403-412.
2. Moir D, Rickert WS, Levasseur G, et al. A comparison of mainstream and sidestream marijuana and tobacco cigarette smoke produced under two machine smoking conditions. [↗](#) *Chemical Research in Toxicology*. 2008;21(2):494-502.
3. Taylor DR, Poulton R, Moffitt TE, Ramankutty P, Sears MR. The respiratory effects of cannabis dependence in young adults. *Addiction*. 2000;95(11):1669-1677.
4. Wilson KM, Torok MR, Wei B, et al. Detecting biomarkers of secondhand marijuana smoke in young children. *Pediatric Research*. 2017;81(4):589-592.
5. Moore C, Coulter C, Uges D, et al. Cannabinoids in oral fluid following passive exposure to marijuana smoke. *Forensic Science International*. 2011;212(1-3):227-230.
6. Broyd SJ, van Hell HH, Beale C, Yücel M, Solowij N. Acute and chronic effects of cannabinoids on human cognition—a systematic review. *Biological Psychiatry*. 2016;79(7):557-567.

Page last reviewed: October 19, 2020

Cannabis Fire Safety

Responsibility Grows Here

Impairment Includes Cannabis



Cooking while under the influence of alcohol, prescription drugs or cannabis can result in a fire.

Don't put yourself or your family at risk.

- Always remain alert when cooking.
- Stand by your pan.
- Have a cover ready to **put a lid on a stovetop fire.**
- Keep a close eye on anyone who is cooking while impaired.

Smoking is Smoking

Smoking is one of the **leading causes of residential fire deaths in Massachusetts.**

- Encourage smokers to **smoke outside.**
- **Never smoke in bed.**
- Whether it is tobacco or cannabis, cigarettes and joints need to be properly extinguished in **large, deep ashtrays, or in cans of sand outside.**
- Landlords can prohibit all smoking in their buildings.

Smoke Alarms Save Lives!



Only working smoke alarms give you the early warning you need to safely escape a fire.

- **Have working smoke and carbon monoxide alarms** on every level of your home.
- **Test alarms every month.**
- Make sure smoke alarms are less than 10 years old.

- Have an **escape plan with 2 ways out** of every room and a meeting place outside.
- **Practice a home fire escape plan** so everyone in your home knows what to do when the smoke and carbon monoxide alarms sound.
- Keep all pathways to exits clear of obstacles and trip hazards.

Growing Cannabis at Home, Safely



- It is legal to grow 6 plants per adult (over 21 years of age) for a maximum of 12 plants per home.
- Growing cannabis may involve high-powered lamps, constant irrigation, fertilizer, temperature control and ventilation.
- If you rent, be sure to check with the owner before making any modifications to the house or its systems. Remember that violating the fire code is usually a violation of a rental agreement.

For more information, contact your local fire department.



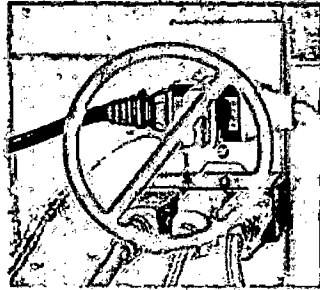
Department of Fire Services
www.mass.gov/dfs

Insert Fire Department Name and Address here.

Too Many Wires Can Cause Fires

If you grow cannabis at home, you may use grow lamps or dehumidifiers.

- Ensure that all electrical appliances are **certified by an accredited testing agency** like Underwriters Laboratory (UL).
- Operate all electrical appliances according to manufacturer's instructions.
- Plug all heat-generating appliances directly into outlets. Do not use extension cords or power strips.
- **Extension cords should not be linked together.** Instead, use an extension cord that is long enough to do the job.
- Avoid running cords under rugs, which can damage the cord and cause a fire.
- **Avoid overloading a circuit with octopus outlets** and use extension cords only as a temporary connection. If permanent wiring, circuits or outlets are needed, have them installed by a licensed electrician.
- Do not bypass electrical system safety mechanisms like circuit breakers and fuses.



Building Modifications Require Building Permits

Before modifying a building for ventilation or insulation, you must get a permit from the building department (and permission from the landlord if you rent). Modifications to insulation or ventilation can affect how fire will spread, posing a danger to both occupants and responding firefighters.



This document provides general guidance. Consult an attorney for legal advice. For questions about the State Fire Code, check with your local fire department.

Don't Put Yourself or Your Family at Risk of Fire.

Hazardous Extraction of Cannabis Oil Can Cause Explosions and Fires

- Extracting cannabis or cbd oil with flammable materials (such as propane, butane, or alcohol) is extremely dangerous and potentially explosive. It can result in the uncontrolled release of flammable vapors. Vapors can easily find ignition sources and cause explosions and fires that result in serious injuries and property damage.
 - Extraction in basements is particularly dangerous because flammable vapors can accumulate in high concentrations leading to more powerful explosions.
 - **Extracting cannabis or cbd oil with flammable materials such as butane in homes is unsafe and against the law.**
 - It is illegal to store more than 2 lbs. of butane inside your home. Two pounds is the equivalent of two small gas cylinders for camping.
 - Propane may not be stored inside a home.
 - Having more than 42 lbs. of propane or butane requires a permit, and more than 2,000 lbs. requires a license from the city or town.
- In order to conduct extraction safely using flammable materials, you must:**
- Obtain a permit to conduct extraction using hazardous or flammable materials from the fire department.
 - Have a permit from the fire department to store flammable gas or liquid.
 - Depending on the quantity of flammable material, you might need a license from the city or town.



Frustrated

Farris Alkhaiyer <farrisalkhaiyer@outlook.com>

Thu 05/05/2022 10:48

To: ICanHelp@AirCommunities.com

<ICanHelp@AirCommunities.com>; terry.considine@aircommunities.com

<terry.considine@aircommunities.com>; kevin.mosher@aircommunities.com

<kevin.mosher@aircommunities.com>

Hello Susan, I got this email from a reply to a bad Google review of BayRidge. I've been renting in BayRidge for years, and it's just getting worse and worse. They know we're taking this to court and still mark my service requests as complete without even stepping foot in the apartment (Gordon did that just this morning with knowledge of Kristen), allow people to smoke weed inside apartments no matter how many times we complain (knowing weed is illegal in NH), and lie to my face.

This should have reached Kevin Mosher and Terry Considine, but still the same style of management continues. I'm still hopeful someone can fix this, and want to give you a chance, but if not then let me know.

6/7

Attention Needed

Farris Alkhaiyer <farrisalkhaiyer@outlook.com>

Fri, 18/03/2022 07:31

To: Kristen.Smethurst@aimco.com <Kristen.Smethurst@aimco.com>

Hey Kristen,

Here are some things I wanted to share with you:

1. I've talked with a couple of people at the leasing office about this before: the FedEx guy is a very rude guy, he not only leaves his stuff all over the place we can't find a space to change (find photo attached), he also feels entitled to take other people's turn on equipment (people including me have to wait for 30-60 minutes for him to finish while they have limited lunch breaks), he notices that people who actually live here in BayRidge are waiting for him, and he couldn't be bothered!! He is VERY loud, and he DOES NOT WIPE THE EQUIPMENT AFTER HE FINISHES!!!!!!!!!!!!!! don't want to see him having access to our facilities anymore and I can get him a list of cheap gyms near by that he can subscribe to. We have enough people living here running a mock all over the place, which brings me to my next complaints
2. When we first came to Bayridge you guys told us that you're running DNA tests for all dogs here. I noticed that you sent an email out to people to bring their attention to the fact that a lot of them are not picking after their dogs but that is not enough (see photos attached), every time I go for a walk or a run I see some of these dog feces and I almost throw up each and every time it really ruins my week and I'm sure it's the same case with a lot of other people living here.
3. Speaking of dogs, there's a man living in 4 Chadwick apartment F with a dog or two (I know that because he always leaves his dog on the balcony and every time I'm taking a walk the dog starts barking very loudly at me, it almost made me slip a couple of times, if he's walking his dog the dog is always barking all the time and I have to apologize to everyone if I'm having a zoom meeting with it's really embarrassing and annoying, this dog is literally the only dog that barks this loud and also aggressive trying to run an attack people all the time and his owner does not lift a finger to stop the dog from annoying everyone.
4. The last time I had a service request I asked the maintenance guy if we can install a door for the kitchen because the fridge is so loud it's disrupting my sleep, he promised to get back to me with a solution either to the fridge or to the door and he did not, and that was a couple weeks ago.
5. I am very patient with people smoking tobacco or weed on the property, especially in the winter, but now we have a neighbor throwing cigarettes buds in front of the building (see attached photo), and people may need a reminder that weed is illegal in NH, so they may want to move to Mass!

THE STATE OF NEW HAMPSHIRE

JUDICIAL BRANCH

<http://www.courts.state.nh.us>

RULE 7 NOTICE OF DISCRETIONARY APPEAL

This form should be used only for an appeal from a final decision on the merits issued by a superior court or circuit court in (1) a post-conviction review proceeding; (2) a proceeding involving the collateral challenge to a conviction or sentence; (3) a sentence modification or suspension proceeding; (4) an imposition of sentence proceeding; (5) a parole revocation proceeding; (6) a probation revocation proceeding; (7) a landlord/tenant action or a possessory action filed under RSA chapter 540; (8) an order denying a motion to intervene; or (9) a domestic relations matter filed under RSA chapters 457 to 461-A, except that an appeal from the first final order should be filed on a Rule 7 Notice of Mandatory Appeal form.

1. COMPLETE CASE TITLE AND CASE NUMBERS IN TRIAL COURT

Nashua-Oxford-Bay Associates, L.P. d/b/a Bay Ridge at Nashua v. Nour Al Assad and Farres

Alkhayer

459-2022-LT-00671

2. COURT APPEALED FROM AND NAME OF JUDGE(S) WHO ISSUED DECISION(S)

9th N.H. Circuit Court - Nashua District Division

3A. APPEALING PARTY: NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER.

Farres Alkhayer

18 Chadwick Circle

L

Nashua, N.H.

03062

E-Mail address: **Farresalkhayer@icloud.com**

Telephone number: **(603) 718-9523 ext**

3B. APPEALING PARTY'S COUNSEL: NAME, BAR ID NUMBER, FIRM NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER.

N/A

E-Mail address: _____

Telephone number: _____

4A. OPPOSING PARTY: NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER.

Nashua-Oxford-Bay Associates,

L.P. d/b/a Bay Ridge at Nashua

25 Bay Ridge Drive

Nashua, N.H.

03062

Bayridgenashua@eaglerockmanagement.com

E-Mail address: _____

Telephone number: **(603) 821-0717 ext**

4B. OPPOSING PARTY'S COUNSEL: NAME, BAR ID NUMBER, FIRM NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER.

Arthur O. Gormley

Bar ID: 967

Gormley & Gormley P.C.

351 Main Street

Nashua, N.H.

03060

E-Mail address: **info@gormley.com**

Telephone number: **(603) 882-5101 ext**

RULE 7 NOTICE OF DISCRETIONARY APPEAL

5. NAMES OF ALL OTHER PARTIES AND COUNSEL IN TRIAL COURT
Nour Al Assad

6. DATE OF CLERK'S NOTICE OF DECISION OR SENTENCING.
11/21/2022
DATE OF CLERK'S NOTICE OF DECISION ON POST-TRIAL MOTION, IF ANY.
12/08/2022

7. CRIMINAL CASES: DEFENDANT'S SENTENCE AND BAIL STATUS
N/A

8. APPELLATE DEFENDER REQUESTED? YES or NO: No
IF YOUR ANSWER IS YES, YOU MUST CITE STATUTE OR OTHER LEGAL AUTHORITY UPON WHICH CRIMINAL LIABILITY WAS BASED AND SUBMIT A CURRENT REQUEST FOR A LAWYER FORM (FINANCIAL STATEMENT). SEE SUPREME COURT RULE 32(4).

9. IS ANY PART OF CASE CONFIDENTIAL? YES or NO: No
IF SO, IDENTIFY WHICH PART AND CITE AUTHORITY FOR CONFIDENTIALITY. SEE SUPREME COURT RULE 12.

10. IF ANY PARTY IS A CORPORATION LIST THE NAMES OF PARENTS, SUBSIDIARIES AND AFFILIATES.
Air Communities; Eagle Rock Properties; Kristen Smithurst

11. DO YOU KNOW OF ANY REASON WHY ONE OR MORE OF THE SUPREME COURT JUSTICES WOULD BE DISQUALIFIED FROM THIS CASE? YES or NO: No
IF YOUR ANSWER IS YES, YOU MUST FILE A MOTION FOR RECUSAL IN ACCORDANCE WITH SUPREME COURT RULE 21A.

12. IS A TRANSCRIPT OF TRIAL COURT PROCEEDINGS NECESSARY FOR THIS APPEAL? SEE SUPREME COURT RULE 15, COMMENT.
YES or NO: Yes
IF YOUR ANSWER IS YES, YOU MUST COMPLETE THE TRANSCRIPT ORDER FORM ON PAGE 4 OF THIS FORM.

RULE 7 NOTICE OF DISCRETIONARY APPEAL

13. NATURE OF CASE AND RESULT (Limit two pages double-spaced; please attach or include.)

For this section and section 14, you may choose to use the five-page, single-spaced Additional Information Pages form. The five-page Additional Information Pages form is available on the judicial branch website: <https://www.courts.state.nh.us/supreme/forms/index.htm>.

14. ISSUES ON APPEAL (Limit eight pages double-spaced; please attach or include.)

You may choose to use the same five-page, single-spaced Additional Information Pages form identified in section 13.

The New Hampshire Supreme Court reviews each discretionary notice of appeal and decides whether to accept the case, or some issues in the case, for appellate review. The following acceptance criteria, while neither controlling nor fully describing the court's discretion, indicate the character of the reasons that will be considered.

1. The case raises a question of first impression, a novel question of law, an issue of broad public interest, an important state or federal constitutional matter, or an issue on which there are conflicting decisions in New Hampshire courts.
2. The decision below conflicts with a statute or with prior decisions of this court.
3. The decision below is erroneous, illegal, and unreasonable or was an unsustainable exercise of discretion.

Separately number each issue you are appealing and for each issue: (a) state the issue; (b) explain why the acceptance criteria listed above support acceptance of that issue; and (c) if a ground for appeal is legal sufficiency of evidence, include a succinct statement of why the evidence is alleged to be insufficient as a matter of law.

15. ATTACHMENTS

Attach to or include with this notice of appeal the following documents in order: (1) a copy of the trial court decision or order from which you are appealing; (2) the clerk's notice of the decision below; (3) any court order deciding a timely post-decision motion; and (4) the clerk's notice of any order deciding a timely post-decision motion.

Do not attach or include any other documents with this notice of appeal. Any other documents you wish to submit must be included in a separate Appendix, which must have a table of contents on the cover and consecutively numbered pages.

16. CERTIFICATIONS

I hereby certify that every issue specifically raised has been presented to the court below and has been properly preserved for appellate review by a contemporaneous objection or, where appropriate, by a properly filed pleading. To the extent that an unpreserved issue is raised as plain error, I hereby certify that I have specifically identified that issue as plain error in section 14.

Farres Alkhayer

Appealing Party or Counsel

I hereby certify that on or before the date below, copies of this notice of appeal were served on all parties to the case and were filed with the clerk of the court from which the appeal is taken in accordance with Supreme Court Rules 5(1) and 26(2) and with Rule 18 of the Supplemental Rules of the Supreme Court.

12/21/2022

Date

Farres Alkhayer

Appealing Party or Counsel

RULE 7 NOTICE OF DISCRETIONARY APPEAL

TRANSCRIPT ORDER FORM

INSTRUCTIONS:

1. If a transcript is necessary for your appeal, you must complete this form.
2. List each portion of the proceedings that must be transcribed for appeal, e.g., entire trial (see Supreme Court Rule 15(3)), motion to suppress hearing, jury charge, etc., and provide information requested.
3. Determine the amount of deposit required for each portion of the proceedings and the total deposit required for all portions listed. Do not send the deposit to the Supreme Court. You will receive an order from the Supreme Court notifying you of the deadline for paying the deposit amount to the court transcriber. Failure to pay the deposit by the deadline may result in the dismissal of your appeal.
4. The transcriber will produce a digitally-signed electronic version of the transcript for the Supreme Court, which will be the official record of the transcribed proceedings. The parties will be provided with an electronic copy of the transcript in PDF-A format. A paper copy of the transcript may also be prepared for the court.

PROCEEDINGS TO BE TRANSCRIBED					
PROCEEDING DATE (List each day separately, e.g. 5/1/11; 5/2/11; 6/30/11)	TYPE OF PROCEEDING (Motion hearing, opening statement, trial day 2, etc.)	NAME OF JUDGE	LENGTH OF PROCEEDING (in .5 hour segments, e.g., 1.5 hours, 8 hours)	RATE (standard rate unless ordered by Supreme Court)	DEPOSIT
11/15/2022	Eviction (landlord-Tenant)	Beth H. Kissinger	0.25	X \$137.50	\$ 34.38
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				X \$137.50	\$
				TOTAL DEPOSIT	\$

PROCEEDINGS PREVIOUSLY TRANSCRIBED					
PROCEEDING DATE (List date of each transcript volume)	TYPE OF PROCEEDING (Motion hearing, opening statement, trial day 2, etc.)	NAME OF JUDGE	NAME OF TRANSCRIBER	DO ALL PARTIES HAVE COPY (YES OR NO)	DEPOSIT FOR ADDITIONAL COPIES
					TBD
					TBD
					TBD

NOTE: The deposit is an estimate of the transcript cost. After the transcript has been completed, you will be required to pay an additional amount if the final cost of the transcript exceeds the deposit. Any amount paid as a deposit in excess of the final cost will be refunded. The transcript will not be released to the parties until the final cost of the transcript is paid in full.

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2022-0731, Nashua-Oxford-Bay Associates, L.P. d/b/a Bay Ridge at Nashua v. Nour Al Assad & a., the court on January 30, 2023, issued the following order:

Notice of appeal is declined. See Rule 7(1)(B).

Under Supreme Court Rule 7(1)(B), the supreme court may decline to accept a notice of discretionary appeal from the superior or circuit court. No appeal, however, is declined except by unanimous vote of the court with at least three justices participating.

This matter was considered by each justice whose name appears below. If any justice who considered this matter believed the appeal should have been accepted, this case would have been accepted and scheduled for briefing.

Declined.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua District Division, 459-2022-LT-00671

Honorable Beth H. Kissinger

Ms. Nour Al Assad

Mr. Farres Alkhayer

Arthur O. Gormley, III, Esq.

File

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

Court Name: 9th Circuit - District Division - Nashua
Case Name: Nashua-Oxford-By-Associates, L.P. d/b/a Bay Ridge of Nashua v. New Al Assad and Faris Alkhatib
Case Number: 459-2022-LT-00671
(if known)

MOTION: To Stay

RECEIVED
NH CIRCUIT COURT
9th DISTRICT
MAR 17 2023

1. Faris Alkhatib

state the following facts and request the following relief:

The NH Supreme Court, I believe, denied my appeal. However, as per NH Supreme Court and the Supreme Court of the United States (SCOTUS), I still have the right to further ask SCOTUS for review of this very important case and sensitive legal matter.

Therefore, I respectfully ask the court to stay its decision further regarding this case, and give me a fair opportunity to properly file at SCOTUS and within the time frame set forth by SCOTUS.

March 17, 2023
Date
(603) 810-9132
Telephone

[Signature]
Signature
18 Chadwick Cir. Apt L. Nashua, NH 03062
Address

I certify that on this date I provided a copy of this document to Arthur Gormley III (other party's attorney) by: Hand-delivery OR US Mail OR E-mail (E-mail only by prior agreement of the parties based on Circuit Court Administrative Order).

March 18, 2023
Date

[Signature]
Signature

ORDER

Motion granted. Motion denied.

Recommended: See Supplemental/Narrative Order.

Date

Signature of Marital Master/Referee

Printed Name of Marital Master/Referee

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

4-27-23
Date

[Signature]
Signature of Judge

Beth H. Kissinger
Printed Name of Judge

Printed Name of Judge

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

HILLSBOROUGH COUNTY

9TH CIRCUIT - DISTRICT DIVISION - NASHUA

In the Matter of:
Nashua-Oxford-Bay Associates, L.P. d/b/a Bay Ridge at Nashua
v.
Nour Al Assad and Farres Alkhayer
Case No. 459-2022-LT-00671

ORDER ON MOTION TO STAY

Presently before the Court is a *Motion to Stay* submitted by the Tenant, Farres Alkhayer ("Mr. Alkhayer" or the "Tenant"), seeking to continue the stay of a Writ of Possession entered by Order of this Court dated November 21, 2022, granting the Landlord, Nashua-Oxford-Bay Associates, L.P. d/b/a Bay Ridge at Nashua's ("Bay Ridge" or the "Landlord"), *Petition for a Writ of Possession*. See Index #1.

Mr. Alkhayer, seeks a stay pursuant to RSA 540:20 while he appeals the New Hampshire Supreme Court's refusal to accept the discretionary appeal of this Court's order(s) to the United States Supreme Court. See Index #23. Bay Ridge has submitted an *Objection to the Motion to Stay*. See Index #24. After review of the applicable statutes and application of well-established principles of statutory construction, this Court, for the reasons set forth infra, GRANTS the *Motion to Stay*.

Entry of the Writ of Possession shall be stayed until the United States Supreme Court enters a ruling on Mr. Alkhayer's appeal/ writ of certiorari and/or he fails to properly submit pleadings at that court within the time allotted as set forth in rules of court of the United States Supreme Court.

As a matter of background, the Court finds the following procedural facts. On October 17, 2022, Bay Ridge submitted its Landlord and Tenant Writ seeking entry of a Writ of Possession against Mr. Alkhayer and his roommate, Nour Al Assad. See id. Following a hearing on November 15, 2022, this Court concluded that the landlord, Bay Ridge, had proven that the tenants were in possession of the property without right because they had failed to pay the required rent. See Index #7. In its Order, however, this Court exercised its authority to stay the Writ of Possession until January 15, 2023. As noted in its Order, that stay was dependent upon the Tenant's payment of weekly rent of \$388.46 to the Landlord. Mr. Alkhayer filed a *Motion to Reconsider* on November 29, 2022. See Index #13. Bay Ridge at Nashua submitted an *Objection* on December 8, 2022. See Index #15. The Court denied the *Motion to Reconsider* on December 8, 2022. See Index #13. Mr. Alkhayer submitted a *Notice of Intent to Appeal*, see Index #14, on November 28, 2022, and the *Notice of Appeal* to the New Hampshire Supreme Court, see Index #17 on December 21, 2022.

On January 30, 2023, the New Hampshire declined to consider the appeal. The New Hampshire Supreme Court on March 16, 2023, also denied Mr. Alkhayer's *Motion for Reconsideration*. The New Hampshire Supreme Court subsequently issued a Mandate on both orders on March 20, 2023.

Following the New Hampshire Supreme Court's Mandate declining to consider the appeal and denying the *Motion for Reconsideration*, Mr. Alkhayer filed his *Motion to Stay*. See Index #23. Mr. Alkhayer indicated his intent to seek an appeal to the Supreme Court of the United States and requested this Court to stay the Writ of Possession in order to give him a fair opportunity to file his appeal/writ of certiorari with the Supreme Court of the United States. Bay Ridge submitted its *Objection* on March 27, 2023. It alleges that this Court's judgment is now final pursuant to RSA 540:14, I, and the Writ of Possession should issue. In its *Objection*, Bay Ridge makes a number of legal arguments concerning the likelihood of success of Mr. Alkhayer's appeal to the United States Supreme Court. It also contends that "the Defendant's proper avenue of relief is to file a Writ of Certiorari with the United States Supreme Court and request an injunction of the Writ of Possession pending appellate review. See id.

Resolution of the *Motion to Stay* requires this Court to consider the state statute pertaining to appeals of an order directing that a Writ of Possession be issued. RSA 540:20 provides:

A party to any action brought pursuant to this chapter shall, within 7 days of the date of the notice of judgment, file in the district court a notice of intent to appeal to the supreme court. Until the appeal is perfected by filing of a notice of appeal in the supreme court, the district court shall retain exclusive jurisdiction of the case. After the filing of the notice of appeal in the supreme court, the district court shall retain jurisdiction of the matter for purposes of collecting rent pending appeal. In all other respects, the judgment of the district court shall be final at the expiration of the appeal.

Id.

It is well established that courts determine the intent of the legislature as expressed in the words of the statute. The Court first examines the language of the statute, and where possible, applies the plain and ordinary meanings to the words used. State v. Mercier, 165 N.H. 83, 85 (2013). When the language of the statute is plain and unambiguous, the Court need not look beyond it for further indication of the legislative intent and we do not consider what the legislature may have said or add language the legislature did not see fit to include in the statute. See e.g., State v. Guay, 164 N.H. 696, 699 (2013); Landry v. Landry, 154 N.H. 785, 787 (2007). Courts must construe statutes so as to effectuate the evident purpose and to avoid an interpretation that would lead to an absurd or unjust result. Doggett v. Town of North Hampton, 138 N.H. 744, 746 (1994).

The Court accordingly looks to the plain meaning of the words included in RSA 540:20. It observes that the legislature did not specify the New Hampshire Supreme Court in that statute. It directed only that while there is a pending appeal in the "supreme court", the district court maintains jurisdiction for the purposes of collecting rent pending resolution of the appeal. Although it is true that 540:20 uses the term "notice of appeal" and not "writ of certiorari", which could indicate that the legislature intended that the stay for purposes of an appeal extend only during the appeal period for the New Hampshire Supreme Court, the Court also observes that "notice of appeal" is not capitalized and as such, this Court determines that by using that term, the legislature did not intend to indicate that stays would only be extended if an appeal was made to the New Hampshire Supreme Court only.

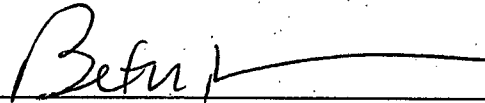
As noted supra, this Court may not add language to the statute that the legislature did not see fit to include in it. Here, the Legislature used generic terms of "notice of appeal" (in lower case) and "supreme court" (lower case). This Court is concerned that if it is denied the *Motion to Stay*, it would be adding limiting language to the statute, namely "New Hampshire Supreme Court" to the words of the statute.

Accordingly, in light of the lack of specificity in RSA 540:20, this Court will GRANT the *Motion to Stay*. Mr. Alkhayer, however, must continue to pay into the Court weekly rent as directed by RSA 540:25, I, while he seeks a Writ of Certiorari at the United States Supreme Court. The Court observes however that if Mr. Alkhayer fails to perfect an appeal, this Court will affirm its judgment of November 21, 2022, and it is entitled under RSA 540:22, to direct that additional damages or costs be paid to the prevailing party. RSA 540:22.

So Ordered.

4-27-23

Date



Hon. Beth H. Kissinger, Judge