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# Landlord scores court victory over constitutionality of Union City rent control rules

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By **Ron Zeitlinger | The Jersey Journal**

A lawsuit by a landlord over the constitutionality of how rent control is administered in Union City has been revived after a judge who had dismissed most of the counts reversed her decision.

In a ruling issued by Hudson County Superior Court Judge Kimberly Espinales-Maloney on Sept. 12, the court clarified that the ordinance setting Union City's procedures and regulations for rent control is unconstitutional, and it reaffirmed that the application of the ordinance violated the landlord's rights.

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The city's process for calculating rent, which has been altered over the past two years after complaints from landlords and a separate court decision, deprived landlords of an avenue to appeal those decisions, and even further, did not include any rule that the landlord even be notified that a tenant challenged a rental rate.

A June 23 order granted partial summary judgment for the landlord and also for Union City, but the city's victory was short-lived.

"The court found that (Union City) violated (1700 Bergenline's) due process rights when they failed to provide a pre-deprivation hearing," the Sept 12 ruling said. "It follows that (the city) cannot rely on the unconstitutional rent determinations.

"Accordingly, the court amends the June 23 order to grant summary judgment in plaintiff's favor to the extent it seeks a judgment declaring that any rent determination calculated without a pre-deprivation hearing is invalid."

The latest ruling stems from a lawsuit filed by 1700 Bergenline and uses as an example a tenant whose rent was adjusted by the rent control office from \$1,479 per month in 2016 when he moved in to \$535.70 after he appealed the rent in 2019.

"The decision in this case validates what property owners have been saying for decades: that Union City's practices have been notoriously unbalanced in favor of tenants," says Ron Simoncini, executive director of Union City Housing Initiative, an industry group that advocates for property rights.

The lawsuit notes that the rent control board apparently based its decision on a registration form from 2014 that incorrectly included a notation that a building superintendent paid \$461 a month in rent in 1975.

No superintendent ever paid rent in the building, the landlord said, and the apartment had been vacant and was completed remodeled before the tenant moved in in 2016. Under those conditions, the landlord had the right to set a market-rate rent, after which rent control rules would have to be followed.

The two sides are due back in court Sept. 20. Union City did not respond to a request for comment on the decision.

Simoncini said landlords have been unfairly demonized by Union City officials who have disregarded the law to fight for tenants.

“In these cases, the Rent Control Office and the Administration itself would encourage tenants to challenge their rents and then make a favorable determination for tenants before even notifying their own Rent Leveling Board of the matter — forget the property owner,” he said. “As a result, hundreds of property owners collected less rent than they were entitled to — with total damages in the hundreds of millions.”

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The latest decision, which is expected to encourage landlords to appeal previous legal rent calculations performed by Union City, comes on the heels of another case in which the rent control board admitted that it failed to recognize that property owners had the right to decontrol rents from 1995-2013 — a practice that resulted in inaccurate legal rent determinations.

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