

Westlaw

816 N.Y.S.2d 695 (Table)

Page 1

11 Misc.3d 131(A), 816 N.Y.S.2d 695 (Table), 2006 WL 587572 (N.Y.Sup.App.Term), 2006 N.Y. Slip Op. 50333(U)

**Unreported Disposition**

(Cite as: 11 Misc.3d 131(A), 816 N.Y.S.2d 695, 2006 WL 587572)

**H**

(The decision of the Court is referenced in a table in the New York Supplement.)

Supreme Court, Appellate Term, New York,  
First Department.

**GRAHAM COURT OWNERS CORP.**, Petitioner-  
Appellant,

v.

Roger **GREEN** and Linda **Green**, Respondents-Ten-  
ants-Respondents.

**No. 570033/04.**

March 2, 2006.

Landlord appeals from a final judgment of the Civil Court, New York County (Jean T. Schneider, J.), entered December 19, 2003, after a nonjury trial, which awarded tenants possession and a money judgment in the sum of \$37,182.79 in a nonpayment summary proceeding.

Present: SUAREZ, P.J., McCOOE,  
SCHOENFELD, JJ.

PER CURIAM.

\*\*\*1 Final judgment (Jean T. Schneider, J.), entered December 19, 2003, affirmed, with \$25 costs.

We agree that landlord failed to establish the existence of apartment improvements justifying the rent increase sought under Rent Stabilization Code [9 NYCRR] § 2522.4[a][1](see *Matter of Sohn v. DHCR*, 258 A.D.2d 384 [1999]; *Matter of Birdoff & Co. v. DHCR*, 204 A.D.2d 630 [1994] ). The trial court properly found that landlord failed to submit adequate documentation in support of its claimed improvements in accordance with DHCR Policy Statement 90-10. Nor did landlord produce any witness affiliated with the contractor or otherwise demonstrate the nature and scope of the work per-

formed (*PWV Acquisition v. Toscano*, 2005 N.Y. Slip Op 51870[U]; compare 30 *W. 70th St. Corp. v. Sylvor*, NYLJ, March 12, 1999, at 26, col 1 [App Term, 1st Dept.]). Furthermore, a number of items reflect normal maintenance and repair for which an increase is not authorized (see *Matter of Linden v. DHCR*, 217 A.D.2d 407 [1995] ). Finally, treble damages were properly imposed, since landlord failed to establish that its overcharge was not willful.

This constitutes the decision and order of the court.

11 Misc.3d 131(A), 816 N.Y.S.2d 695 (Table), 2006 WL 587572 (N.Y.Sup.App.Term), 2006 N.Y. Slip Op. 50333(U) Unreported Disposition

END OF DOCUMENT