

## A TENANT'S TRIAL: FACING EVICTION ALONE

A Harlem resident navigates the legal system without counsel to stay in place.

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**Harlem** — On New Year's Day, Harlem resident Aaron Topping was celebrating his 53rd birthday and looking forward to a new year. He had applied for a job as a maintenance worker at NYU and thought, "This year's gonna be better than last year."

That's what he recalled one month later, sitting in a homeless shelter, tears streaming down his face, trying to explain what happened.

"I been there 25 years and then after awhile I'm in the streets, homeless, nowhere to go, nothing to do. I don't understand it," he said of being evicted from his apartment between West 145th and 146th Streets.

The rapid unraveling of this mild man's life reflects the challenges faced by tenants with housing problems who try to navigate the legal system without counsel, and the grave ramifications for low-income tenants facing eviction. To hear Topping and his recently acquired attorney tell it, the recent string of events form a veritable case study in which things went wrong for the tenant at every turn, either because of an exploitative landlord, an insensitive court system, an initial lack of a lawyer or some combination of the three.

Aaron Topping's troubles began last winter when his landlord, Behemoth Doughnut Corp., took him and his next-door neighbor, Ethel Bates, to Supreme Court, suing them each for being "wrongfully in possession" of their apartments and for \$1 million in damages besides. Topping says he lived in the \$200 per month rent-stabilized Single Room Occupancy (SRO) apartment for almost 26 years in the building at 719 Saint Nicholas Avenue, now nearby condominiums and a new Starbucks.

In its complaint, Behemoth claimed that Topping was not a permanent tenant because he was renting his SRO unit on a weekly basis without a written lease. It also accused him of, among other things, "clogging drain lines to create overflows into other space, breaking a stove, and denying access to his unit so that a radiator leak could be repaired." There was no mention of his apartment's rent-stabilization status.

These claims are all meritless, says Topping's attorney Ryan Napoli, who suggests that Behemoth wanted to get his client and Bates out of the building so it could be sold to pay off \$1 million dollars that Behemoth owed in unpaid back taxes. Behemoth, a company created by Evan Blum in order to purchase 719 St. Nicholas Avenue, has filed for bankruptcy.

But once made, the claims against him meant that Topping – who uses \$126 per month in food stamps as part of his spare lifestyle and used to work as a carpenter – was caught up in complicated legal proceedings whose high stakes he would soon come to know intimately.

He struggled at a disadvantage without a lawyer in Supreme Court. Then, lacking a support system or financial cushion to fall back on, he became homeless while his neighbor was able to afford an attorney and remained in her apartment. The allegations against each tenant do differ, but Bates was accused of breaking and entering her apartment and changing the locks – yet she was never forced to leave.

Behemoth's lawyer, John Simoni, of Goetz, Fitzpatrick LLP, claims that neither tenant ever paid rent to Blum, and that "the owner of the building is unable to sell or renovate the building while Topping and Bates remain in it." The damages, Simoni said, "are related to the specific... labor and material to correct the damages they caused in the units and into the building, but also for the loss—anticipated loss—of profits over not being able to sell the building."

Both Bates and Topping filed "pro se" answers to the complaint – meaning they were representing themselves – but Justice Leland DeGrasse granted Behemoth's motion for summary judgment, allowing Behemoth to repossess the apartments without holding a trial.