

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

HUNTER COLLEGE OF THE CITY UNIVERSITY OF
NEW YORK,

Plaintiff,

- against -

PERLA MAGBALETA,

Defendant.

Index No.

Date Purchased:

SUMMONS

Plaintiff designates New York
County as the place for trial. The
basis of this designation is CPLR
507.

To the Above-Named Defendant:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within twenty (20) days after the service of this summons, exclusive of the day of service; or within thirty (30) days after completion of service made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
April 12, 2018

PRYOR CASHMAN LLP

By: 

Eric D. Sherman, Esq.

Rachel E. Shaw, Esq.

7 Times Square
New York, New York 10036-6569
Tel: (212) 421-4100
Fax: (212) 326-0806
Attorneys for Plaintiff

To: Perla Magbaleta
425 East 25th Street
Room 688, Mailbox 802
New York, New York 10010

SUPREME COURT OF THE STATE OF NEW YORK
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VERIFIED COMPLAINT

Plaintiff Hunter College of the City University of New York ("Plaintiff" or "Hunter College"), by its attorneys, brings this action against defendant Perla Magbaleta ("Magbaleta" or "Defendant"), and alleges as follows:

NATURE OF THE ACTION

1. Hunter College of the City University of New York brings this suit as a result of defendant Perla Magbaleta's refusal, despite timely service of a notice terminating her month-to-month tenancy, to vacate the dormitory housing unit known as 425 East 25th Street, Room 688, New York, New York 10010.

2. Magbaleta, a 68 year-old retired nurse, continues to illegally squat in dormitory student housing nearly *four* years after she was last employed at Bellevue Hospital in Manhattan and more than *nine* years after she was last current on her residence hall charges.

3. While the Brookdale Residence Hall is currently intended to house students enrolled at Hunter College, defendant Magbaleta refuses to leave her dormitory originally provided to her and others under a long-discontinued program dating to the 1960's that reserved a certain number of rooms for active Bellevue nurses.

4. In or around 2005, Magbaleta began working as a nurse at Bellevue Hospital, and

was granted housing in Hunter College's Brookdale Residence Hall on East 25th Street and First Avenue under a discontinued program dating to the 1960's that reserved a certain number of rooms for active Bellevue nurses. Magbaleta entered into an occupancy agreement granting her the right to occupy a dormitory room within Hunter's campus, provided that she remained employed as a full-time nurse at Bellevue Hospital and maintained her dormitory room as her primary residence.

5. Starting in early 2009, Magbaleta violated the terms of her occupancy agreement by failing to pay her residence hall charges. Accordingly, Hunter College began issuing demand notices.

6. Not only did Magbaleta ignore the demand notices issued by Hunter, but in 2014, she left her full-time position at Bellevue Hospital, making her ineligible for housing in the Brookdale Residence Hall in any event. At that time, Magbaleta owed over \$29,000 in residence hall charges.

7. To date, Magbaleta has racked up a staggering \$56,000 in unpaid residence hall charges on account of her continued occupancy, all the while ignoring Hunter College's service of additional demand notices.

8. In 2017, Hunter College, the landlord¹ of the building housing the Brookdale Residence Hall, formally terminated Magbaleta's month-to-month tenancy. By notice dated August 31, 2017, Hunter College notified Magbaleta of its intention to terminate her month-to-month tenancy, effective September 30, 2017.

9. Continuing her familiar pattern, Magbaleta ignored the termination notice and refused to make way for students enrolled at Hunter College who are awaiting housing, and thus

¹ The term "landlord" is used descriptively herein for definition.

depriving them of much-needed space.

10. Magbaleta's refusal to vacate and surrender her dormitory room leave Hunter College with no choice but to seek the Court's assistance in regaining possession of its property currently occupied by Magbaleta.

11. Plaintiff is entitled to a judgment of possession of the premises, and damages in the amount of rent or use and occupancy of the premises dorm room, of which Plaintiff has been deprived due to Magbaleta's actions, as well as its reasonable legal fees and costs.

THE PARTIES

12. Plaintiff Hunter College is a college within the City University of New York ("CUNY"), having its principal place of business at 695 Park Avenue, New York, New York 10065.

13. Upon information and belief, defendant Perla Magbaleta is an individual residing at 425 East 25th Street, Room 688, Mailbox 802, New York, New York 10010 ("Room 688" or the "Dorm Room").

JURISDICTION AND VENUE

14. This Court has personal jurisdiction over Magbaleta because Magbaleta is a resident of the State of New York.

15. Venue is proper in New York County pursuant to N.Y. C.P.L.R. § 507.

FACTS

A. Magbaleta's Occupancy of the Dorm Room

16. Pursuant to a license agreement (the "License Agreement"), the City of New York is the licensor and Hunter College, through CUNY, is the licensee of the building located at 425 East 25th Street, New York, New York (the "Building").

17. Certain dormitory rooms located within the Building were formerly part of the

Bellevue School of Nursing, a division of NYC Health + Hospitals Bellevue a/k/a Bellevue Hospital ("Bellevue").

18. Pursuant to the License Agreement, Hunter College is the landlord of the Building and operates a portion of the Building as the Brookdale Residence Hall.

19. The Brookdale Residence Hall is currently intended to house students enrolled at Hunter College.

20. However, pursuant to a series of legacy agreements between and among Hunter College and Bellevue, among others, dating to the 1960's and 1970's, for a time a portion of the dormitory rooms at the Brookdale Residence Hall were reserved for full-time nurses employed at Bellevue.

21. While that program has been discontinued, as of 2017, approximately thirty occupants remained of those originally provided dormitory rooms located in the Building under the program for Bellevue nurses.

22. Magbaleta, one of the remaining occupants who was originally provided housing in the Building pursuant to her employment as a nurse at Bellevue, is the occupant of Room 688.

23. Magbaleta first occupied Room 688 pursuant to a Brookdale Residence Hall occupancy agreement between Hunter College and Magbaleta, executed in or around 2005 (the "Occupancy Agreement").

24. The Occupancy Agreement granted Magbaleta a month-to-month tenancy, subject to the following conditions (among others): (a) she remained employed as a full-time nurse at Bellevue; and (b) she maintained the Dorm Room as his primary residence.

25. Further, the Occupancy Agreement granted both Hunter College and Magbaleta the right to terminate the Occupancy Agreement, at any time, upon 30 days' notice.

B. Magbaleta Violates the Terms of Her Occupancy Agreement

26. Commencing in July 2009, Magbaleta began paying her residence hall charges on an inconsistent basis. Accordingly, Hunter began issuing demand notices to Magbaleta on account of her outstanding room fees (copies of the demand notices issued to Magbaleta are annexed hereto as **Exhibit A**).

27. Magbaleta ignored the demand notices issued by Hunter, and continued in occupancy of Room 688.

28. By 2014, and continuing to date, Magbaleta ceased paying *all* of her residence hall charges, and has nonetheless continued in occupancy for more than four years.

C. Magbaleta Leaves Her Position at Bellevue Hospital Making Her Ineligible for Housing

29. In addition to owing Hunter College tens of thousands of dollars in unpaid residence hall charges, Magbaleta ceased working at Bellevue Hospital in 2014.

30. By letter dated March 14, 2014, Hunter College requested that Magbaleta confirm her full-time employment at Bellevue Hospital (a copy of Hunter's March 14, 2014 letter is annexed hereto as **Exhibit B**).

31. By letter dated March 20, 2014, Magbaleta confirmed to Hunter College that she had left her full-time position at Bellevue Hospital to join a volunteer program.

32. By letter dated November 10, 2015, Hunter College acknowledged that Magbaleta was no longer employed at Bellevue Hospital, making her ineligible for housing in the Brookdale Residence Hall, and asked her to contact Hunter to discuss her continued occupancy and her \$36,000 in past-due residence hall charges. (A copy of Hunter's November 10, 2015 letter is annexed hereto as **Exhibit C**.)

33. Rather than pay her past due residence hall charges and vacate Room 688 in order

to make way for incoming, eligible students enrolled at Hunter College, Magbaleta ignored Hunter's November 10 letter and continued in occupancy.

D. Hunter College Terminates Magbaleta's Occupancy Agreement

34. In August 2017, Magbaleta still had not moved out of Room 688, and Hunter College once again sought to terminate her tenancy.

35. By notice dated August 31, 2017, Hunter College notified Magbaleta of its intention to terminate her month-to-month tenancy, effective September 30, 2017 (the "Termination Notice"). (A copy of the Termination Notice is annexed hereto as **Exhibit D**).

36. Rather than agree to timely comply with his obligations under the Occupancy Agreement and the Termination Notice by vacating on or before September 30, 2017, Magbaleta ignored the Termination Notice and remained in occupancy.

37. To this day, nearly four years after Magbaleta was employed as a nurse at Bellevue Hospital, and seven months after proper service of the Termination Notice, Magbaleta still has not vacated Room E579.

38. As of March 2018, Magbaleta owes Hunter College \$56,645.00 on account of residence fees due for Room 688, which charges continue to accrue.

FIRST CAUSE OF ACTION
(Ejectment)

39. Plaintiff repeats and realleges all of the foregoing allegations as if fully set forth herein.

40. As landlord of the Dorm Room, Plaintiff has the immediate right to possession of the Dorm Room.

41. Magbaleta has no right to occupy the Dorm Room.

42. Plaintiff properly served Magbaleta with a Termination Notice on or about August 30, 2017, in which Plaintiff terminated Magbaleta's month-to-month tenancy in the Dorm Room effective September 30, 2017.

43. Magbaleta failed to vacate the Dorm Room, and remains there to this day.

44. Plaintiff has been damaged by Magbaleta's illegal holding over in the Premises in violation of the Termination Notice.

45. Plaintiff is entitled to immediate and actual possession of the Dorm Room.

46. By reason of the foregoing, Plaintiff is therefore entitled to: (a) a judgment declaring that Plaintiff is entitled to immediate possession of the Dorm Room; (b) a judgment directing the Sheriff of New York County or a New York City Marshal to eject Magbaleta from the Dorm Room; (c) the issuance of a Warrant of Eviction removing Magbaleta from the Dorm Room, and putting Plaintiff into immediate possession of the Dorm Room; and (d) a money judgment in the amount of \$56,645.00 with interest from the date each installment of room fees and/or additional fees was due and such further sums as may be due through the date of judgment.

47. Plaintiff is further entitled to the lost rent or use and occupancy for the Dorm Room that has accrued since September 30, 2017.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Magbaleta as follows:

1. On Plaintiff's First Cause of Action, (i) a judgment declaring that Plaintiff is entitled to immediate possession of Room 688; (ii) a judgment directing the Sheriff of New York County or a New York City Marshal to eject Magbaleta from Room 688; (iii) the issuance of a Warrant of Eviction removing Magbaleta from Room 688, and putting Plaintiff into immediate

possession of Room 688; (iv) a money judgment in the amount of \$56,645.00 with interest from the date each installment of room fees and/or additional fees was due and such further sums as may be due through the date of judgment; and (v) lost rent or use and occupancy for Room 688 that has accrued since September 30, 2017; and in all events,

2. Such other and further relief as this Court deems just and proper.

Dated: New York, New York
April 12, 2018

PRYOR CASHMAN LLP

By: 

Eric D. Sherman, Esq.

Rachel E. Shaw, Esq.

7 Times Square
New York, New York 10036-6569
Tel: (212) 421-4100
Fax: (212) 326-0806
Attorneys for Plaintiff

VERIFICATION

STATE OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

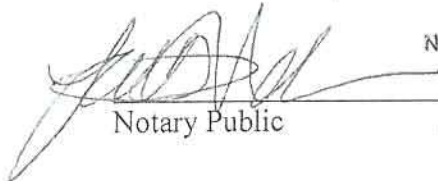
Paul Gottlieb, being duly sworn, deposes and says that:

I am an authorized signatory of Hunter College, the plaintiff in this action. I have read the annexed verified complaint, know the contents thereof and the same are true to my knowledge, except those matters which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. The source of my knowledge is the files and business records of Plaintiff.



Paul Gottlieb

Sworn to before me this
 12th day of March, 2018



Notary Public

LAURA NELSON
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 02NE6350351
 Qualified In New York County
 My Commission Expires 11-07-2020