

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK: HOUSING PART D

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MO-HAK ASSOCIATES, LLC,  
Petitioner,

Index No. L&T 314570/24

-against-

**DECISION/ORDER  
AFTER HEARING**

NOOR SHARIF, JOHN DOE, JANE DOE,  
Respondents.

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Present:

Hon. CLINTON J. GUTHRIE  
Judge, Housing Court

The decision and order after an evidentiary hearing upon respondent’s attorneys’ motion to appoint a guardian ad litem (GAL) for respondent is as follows.

BRIEF BACKGROUND

By Decision/Order dated March 4, 2025, this court granted respondent’s attorneys’ motion to appoint a GAL for respondent to the extent of setting it down for an evidentiary hearing (citing, inter alia, *Resmae Mtge. Corp. v. Jenkins*, 115 AD3d 962 [2d Dept 2014]). The court held in abeyance a separate motion to motion seeking the vacatur of a default judgment and warrant pending the outcome of the GAL hearing. The hearing was held on April 9, 2025.

EVIDENTIARY HEARING

At the hearing, respondent’s attorneys’ sole witness was respondent Noor Sharif. Ms. Sharif appeared virtually via Teams. Ms. Sharif testified credibly as follows. She lives in the subject premises. She was not feeling well. She understood that the petitioner (landlord) wanted her out of the subject apartment and did not come to an agreement with her. She wished to remain in the subject apartment. She understood that an eviction was being taken out of her home. She was trying to “figure out” how to pay her rent and was asking her landlord to

negotiate with her.

Ms. Sharif also testified that she feels anxiety and panic when leaving her apartment, depending on the day and level of stress. She stated that she currently felt anxious and had chills. However, she denied receiving any treatment, seeing a doctor, or taking medications. She stated that it “scared” her to come to court.

On cross-examination, Ms. Sharif was asked about an affidavit she had signed in support of an order to show cause. In reference to a statement in the affidavit about appearing in court if she had been aware of the proceeding, she confirmed that she would have contacted her lawyer about it. She also acknowledged having a lawyer in a prior holdover proceeding.

Ms. Sharif denied being employed but acknowledged having graduated from the University at Texas at Austin and previously working for Merrill Lynch as a sales and training analyst.

Ms. Sharif was next asked several questions about an Emergency Rental Assistance Program (ERAP) application that she made. She was aware of the application and the fact that the application was successful. Petitioner introduced emails between respondent and petitioner’s employee, Rita Martinez, about respondent’s ERAP application into evidence. Respondent acknowledged the emails as hers.

In response to a question, Ms. Sharif stated that she leaves her apartment “when [she] can” but that when she goes out varies by the day.

On redirect, Ms. Sharif clarified that she had not been employed at Merrill Lynch for between 8 to 10 years. She last worked 2-3 years before. She stated that her panic and anxiety had affected her ability to get employment.

On recross, Ms. Sharif was asked about a reference to being a student in her apartment

application from 2017. She explained that she went to Parsons for design school at that time.

After respondent's case, petitioner called one witness, Eddie Cordova. Mr. Cordova testified that he is the superintendent in Ms. Sharif's building. He stated that he lives in the building and lives above Ms. Sharif. He stated that he had dealings with Ms. Sharif and had made repairs in her apartment, including of a clogged toilet. He described Ms. Sharif as "normal" and "smart," remarking that she got to the point when she spoke.

On cross-examination, Mr. Cordova stated that he had limited interactions with Ms. Sharif and did not socialize with her. However, he did state that he had known her for the duration of her tenancy. The hearing concluded after Mr. Cordova's testimony.

#### DISCUSSION/CONCLUSION

CPLR § 1201 provides that "[a] person shall appear by his guardian ad litem...if he [or she] is an adult incapable of adequately prosecuting or defending his [or her] rights." An attorney may move for a guardian ad litem for a client as a "friend" (as defined in CPLR § 1202) (*see Bronx Park Phase II Preserv. LLC v V.C.*, 56 Misc 3d 1218[A], 2017 NY Slip Op 51063[U] [Civ Ct, Bronx County 2017]; *New York Life Ins. Co. v V.K.*, 184 Misc 2d 727, 731 [Civ Ct, NY County 1999]). While the precise reasons for appointment for a guardian ad litem vary, they "might be cultural, linguistic, physical, intellectual, or psychological, to name a few." (*1234 Broadway LLC v Feng Chai Lin*, 25 Misc 3d 476, 484 [Civ Ct, NY County 2009]).

Upon due consideration of the hearing record, the court finds that respondent's attorneys did not establish that respondent is "incapable of" adequately defending her rights herein. Ms. Sharif expressed an overall understanding of the nature of this proceeding and what an eviction would mean. The court credits her testimony about feeling anxious and panicked about coming to court, but there was no medical documentation to corroborate any medical or psychiatric

condition. Moreover, an accommodation such as a virtual appearance (which respondent was granted for the hearing) can address respondent's aversion to traveling to court as meaningfully as guardian ad litem would. Notably, even if appointed, a GAL could not appear *in place of* respondent, who retains her decision-making autonomy in this case (*see Matter of New York Found. Senior Citizens v Hamilton*, 170 AD3d 543, 544 [1st Dept 2019] [Landlord was not entitled to rely on "GAL's acquiescence to the [s]tipulation" since the GAL is not a decision-making position, but an appointment of assistance]). There was also no demonstration that respondent was not able to meaningfully engage with her attorneys in this proceeding; indeed, respondent testified that she knew to contact her attorneys when made aware of an eviction proceeding.

The court will make clear, however, that it does not find that Ms. Sharif's education at a top college or past employment at Merrill Lynch alone invalidate any claim that she needs a GAL. Individual circumstances change over time and certain conditions, whether physical or mental, may arise at any point in life. Nonetheless, in considering the specific testimony and evidence elicited at the hearing, the court does not find that the appointment of a GAL for Noor Sharif is warranted under the standard of CPLR § 1201. Accordingly, the motion to appoint a GAL is denied. Upon this determination, the court reserves decision on respondent's order to show cause to vacate the default judgment, which was originally argued on March 4, 2025. All stays remain in effect pending the determination of that order to show cause.

This Decision/Order will be filed to NYSCEF.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Dated: New York, New York  
April 11, 2025

  
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HON. CLINTON J. GUTHRIE  
J.H.C.