

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Choi v. Linc LIC L.L.C.

Choi, 2026 NY Slip Op 02919 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 154436/24; Appeal No. 6602; Case No. 2025-05055 · Decided May 12, 2026

SUMMARY

The Appellate Division, First Department held that rent concessions granted after the enactment of the Housing Stability and Tenant Protection Act of 2019 functioned as a preferential rent and that the landlord failed to calculate rent increases lawfully. The court also held that the lease provision permitting the landlord to charge attorneys' fees without a court order was unconscionable and that the tenant was entitled to treble damages for willful rent overcharges. The order was modified to grant the tenant summary judgment on liability and remanded for further proceedings concerning damages.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Mendez, J.; Shulman, J.; Rodriguez, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	May 12, 2026
DOCKET	Index No. 154436/24; Appeal No. 6602; Case No. 2025-05055
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of Supreme Court, New York County, denying the defendant-landlord's motion and plaintiff-tenant's cross-motion for summary judgment.
STANDARD OF REVIEW	De novo review of the legal issues presented on the parties' motions for summary judgment.
PRECEDENTIAL VALUE	Published New York Appellate Division decision; uncorrected and subject to revision before publication in the Official Reports.
PARTIES	Linc LIC L.L.C. v. Hyunseoung Choi

TOPICS

- landlord tenant
- real estate
- damages
- summary judgment
- appellate procedure

PRACTICE AREAS

landlord-tenant law

real estate law

contract law

appellate litigation

QUESTIONS PRESENTED

1. Whether the rent concessions functioned as a preferential rent requiring the tenant's rent increases to be calculated from the rent actually charged and paid.
2. Whether the tenant was entitled to summary judgment on liability for rent overcharges and related declaratory and injunctive relief.
3. Whether the lease provision allowing the landlord to assess attorneys' fees without a court order was unconscionable and unenforceable.
4. Whether the landlord overcame the statutory presumption that the rent overcharges were willful, thereby avoiding treble damages.

HOLDINGS

1. The concessions functioned as a preferential rent because the amount charged and paid by the tenant was less than the legal regulated rent; consequently, rent increases had to be calculated from the rent actually charged and paid before renewal, as adjusted by lawful increases.
2. The tenant was entitled to summary judgment as to liability on the second and third claims for rent overcharges and related declaratory and injunctive relief.
3. The lease provision allowing the landlord to assess attorneys' fees against the tenant without a court order was unconscionable and unenforceable.
4. Treble damages were warranted because the landlord did not overcome the presumption of willfulness by a preponderance of the evidence.

KEY QUOTATIONS

"We read the parties' rent abatement agreement "in the light of the circumstances existing at its making"" ([*1])

"The landlord did not meet its burden of overcoming the presumption of willfulness by a preponderance of the evidence; therefore, an assessment of treble damages is warranted" ([*2])

FACTUAL BACKGROUND

The landlord granted the tenant rent concessions under a residential lease and marketed the apartment by advertising the net effective rent after applying those concessions. The rent-abatement agreement characterized six months of concessions as based on adverse conditions, identified as COVID-19, although DHCR guidance limited such concessions to three months. The landlord also charged the tenant attorneys' fees without a court order under a lease provision permitting fees based on the landlord's subjective determination of default, and refunded some fees after the action began.

PROCEDURAL HISTORY

Supreme Court denied both the landlord's motion and the tenant's cross-motion for summary judgment. The Appellate Division modified the order to grant the tenant's cross-motion as to liability and remanded for further proceedings on damages, while affirming otherwise.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The motion court must conduct further proceedings consistent with the decision to determine damages, including treble damages on the rent overcharges and attorneys' fees charged without a court order.

CASES CITED

- *Viohl v. Chelsea W26 LLC*, 241 AD3d 1187, 1189 (1st Dept 2025)
- *Matter of Century Operating Corp. v. Popolizio*, 60 NY2d 483, 488 (1983)
- *Matter of Parsons Manor LLC*, DHCR Adm Rev Dckt No. GS110023RO (June 28, 2019)
- *Matter of Kasowitz, Benson, Torres & Friedman, LLP v. JPMorgan Chase Bank, N.A.*, 237 AD3d 499, 499 (1st Dept 2025), lv denied 44 NY3d 908 (2025)
- *Matter of Bandil Farms Inc. v. New York State Div. of Hous. & Community Renewal*, 190 AD3d 403, 405 (1st Dept 2021)