

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

WAKEFERN FOOD CORP. AND :
JOSEPH FAMILY MARKETS, LLC :
 :
V. : CIV. NO. 3:10CV827 (JCH)
 :
PROSPECT PLAZA IMPROVEMENTS, :
LLC, DLC MANAGEMENT CORP. AND :
FIRST MAN PROSPECT PLAZA :
CORP. :

ORDER FOR ARBITRATION

After considering the evidence presented and the arguments of counsel, the Court finds:

1. The Court has jurisdiction over this matter;
2. Article 29.1 of the Lease between the parties contains an agreement to arbitrate (further defined in Article 38.1) when the tenant (here plaintiff) is alleged to be in default of the nonpayment terms of the lease and the tenant disputes the landlord's contention that a default has occurred;
3. The landlord (defendant here) has served the tenant with a Notice to Quit the premises on or before June 8, 2010, alleging the tenant to be in default for undertaking renovations to the leased premises without the consent of the landlord;
4. The tenant disputes the landlord's allegation of default and alleges in this action for declaratory relief that the landlord's consent has been unreasonably withheld and delayed., in default of landlord's obligations under the lease.

Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction [Doc. #9], construed as a Petition to Order the Parties to Arbitration [see Doc. #8], is **GRANTED**. Pursuant to the terms of the lease, Article 29.1, the 30 day period afforded tenants to cure any breach commences with receipt of the arbitrator's written decision finding a breach. In light of these lease provisions, it is unnecessary to enjoin the filing of a summary process action in state court at this time. Defendants' Application for Temporary Restraining Order and Preliminary Injunction [Doc. #13] is **DENIED** without prejudice to renewal prior to the opening of the store to the public, should defendants develop evidence concerning the structural integrity and/or safety of the premises. An opinion will follow.
SO ORDERED.

ENTERED at Bridgeport this 28th day of May 2010.

_____/s/_____
HOLLY B. FITZSIMMONS
UNITED STATES MAGISTRATE JUDGE