

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

PRESENT: Hon. EILEEN A. RAKOWER
Justice

PART 15

1016 PROPERTIES INC.,
Plaintiff,

INDEX NO. 101991-2012

MOTION DATE _____

- v -

MOTION SEQ. NO. 1

DOROTHEA H. LEVINE
AS EXECUTRIX OF THE ESTATE OF RITA
HABERMAN,
Defendants.

MOTION CAL. NO. _____

The following papers, numbered 1 to _____ were read on this motion for/to

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answer — Affidavits — Exhibits _____

FILED

Replying Affidavits _____

JUL 10 2012

Cross-Motion: Yes No

NEW YORK
COUNTY CLERK'S OFFICE

Plaintiff moves pursuant to CPLR §3215(a) for a default judgment against Dorothea H. Levine, as Executrix of the Estate of Rita Haberman. Plaintiff submits an affidavit of service attesting to service upon Dorothea H. Levine pursuant to CPLR §308(2) on May 4, 2011, by delivery of a copy of the summons and complaint to Felix "Doe", a doorman at Defendant's apartment building, 4 East 72nd Street, New York, NY 10021, Unit 8D and by mailing on April 10, 2010. Plaintiff further annexes proof of additional mailing of the summons and complaint upon Dorothea H. Levine on April 16, 2010. Despite proof of service, defendant has not answered or otherwise responded to the complaint; nor does either defendant submit opposition to the instant motion.

Plaintiff further provides an affidavit of the managing director David Dreyfuss, of Douglas Ellman Property Management, the Registered Managing

Agent of the Plaintiff. Dreyfuss states that defendant Rita Haberman entered into an occupancy agreement of unit 8D at 1016 Fifth Avenue, pursuant to a lease dated June 8, 1959, which is attached to this motion. Dreyfuss asserts that in February 2011, and continuing thereafter, defendant failed to pay the monthly maintenance. According to Dreyfuss, on November 17, 2011, a Judgment in Possession on default was granted to plaintiff. Plaintiff attaches this judgment. A warrant of eviction was executed and plaintiff then obtained legal possession of the premises. Dreyfuss points to paragraph "19A" of the terminated lease, which states that defendant continues "to remain liable for payment of the maintenance/rent which would have become due hereunder from time to time." Further, Article "30" of the lease states that defendant is required to pay legal fees incurred by plaintiff as a result of defendant's default and/or in any action or proceeding. Dreyfuss asserts that Dorothea H. Levine, who is the executor of Rita Haberman's estate, currently owes \$64,090.46 through May 2012, exclusive of legal fees. Plaintiff also requests a money judgment in the amount of \$5,712.71 representing plaintiff's legal fees in this action through the present.

Based upon the foregoing it is hereby

ORDERED that plaintiff's motion for a default judgment against defendant Dorothea H. Levine as Executrix of the estate of Rita Haberman, is granted; and it is further,

ORDERED that the Clerk enter judgment in favor of plaintiff against defendant Dorothea H. Levine, in the amount of 69,803.17, together with interest as prayed for allowable by law (at the rate of 9% per annum from February 2011) until the date of entry of judgment, as calculated by the Clerk, and thereafter at the statutory rate, together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs.

Dated: June 26, 2012


HON. EILEEN A. RAKOWER
J.S.C.

Check one: FINAL DISPOSITION

NON-FINAL
DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

FILED

2

JUL 10 2012

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