

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Submitted - November 29, 2007

FRED T. SANTUCCI, J.P.
PETER B. SKELOS
ROBERT A. LIFSON
EDWARD D. CARNI, JJ.

2007-02000

Seth Robins, respondent, v Sheepshead
Bay-West Condo Association, appellant.

DECISION & ORDER

(Index No. 3070/05)

Richard T. Lau & Associates, Jericho, N.Y. (Nancy S. Goodman of counsel), for appellant.

Bender, Crawford & Bender, LLP, Buffalo, N.Y. (Robert A. Crawford, Jr., of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Kings County (Francois Rivera, J.), dated February 9, 2007, which denied its motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The defendant failed to establish its entitlement to judgment as a matter of law. Its failure to satisfy its initial burden requires denial of the motion, regardless of the sufficiency of plaintiff's opposing papers (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853).

SANTUCCI, J.P., SKELOS, LIFSON and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 18, 2007

ROBINS v SHEEPSHEAD BAY-WEST CONDO ASSOCIATION