

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

D17829  
X/kmg

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Submitted - December 12, 2007

STEPHEN G. CRANE, J.P.  
STEVEN W. FISHER  
DAVID S. RITTER  
JOSEPH COVELLO  
THOMAS A. DICKERSON, JJ.

2007-00244  
2006-08433

DECISION & ORDER

Eileen Brown, appellant, v New York  
City Housing Authority, respondent,  
et al., defendant.

(Index No. 2019/04)

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Antin, Ehrlich & Epstein, P.C., New York, N.Y. (Thomas P. Kinney and Brian J. Issac of counsel), for appellant.

Lester Schwab Katz & Dwyer, LLP, New York, N.Y. (Steven B. Prystowsky and Harry Steinberg of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from (1) an order of the Supreme Court, Queens County (Grays, J.), dated July 5, 2006, which granted that branch of the unopposed motion of the defendant New York City Housing Authority which was pursuant to CPLR 3126 to dismiss the complaint insofar as asserted against it, and (2) an order of the same court, dated November 13, 2006, which denied her motion, in effect, to vacate the prior order.

ORDERED that the appeal from the order dated July 5, 2006, is dismissed; and it is further,

ORDERED that the order dated November 13, 2006 is affirmed; and it is further,

February 1, 2008

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ORDERED that one bill of costs is awarded to the defendant New York City Housing Authority.

The order dated July 5, 2006, was issued upon the plaintiff's default in opposing the motion of the defendant New York City Housing Authority (hereinafter the NYCHA). No appeal lies from an order made upon the default of the appealing party (*see* CPLR 5511).

To vacate the order dated July 5, 2006, the plaintiff was required, inter alia, to demonstrate a reasonable excuse for her default in opposing the NYCHA's motion, (*see Gironda v Katzen*, 19 AD3d 644; *Antoku v Grace Indus.*, 295 AD2d 294). However, the plaintiff failed to provide a reasonable excuse for her failure to oppose the motion (*see Scoca v Bon Realty Corp.*, 284 AD2d 388). She also failed to adequately explain her failure to comply with certain outstanding discovery demands and orders over a two-year period (*see Tutt v City of Yonkers*, 11 AD3d 532). Accordingly, the Supreme Court providently exercised its discretion in denying her motion, in effect, to vacate the order dated July 5, 2006.

CRANE, J.P., FISHER, RITTER, COVELLO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court