

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

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_____AD3d_____

Argued - November 20, 2008

WILLIAM F. MASTRO, J.P.
HOWARD MILLER
RUTH C. BALKIN
WILLIAM E. McCARTHY, JJ.

2007-10002
2008-00738

DECISION & ORDER

Mago, LLC, respondent-appellant, v Amrit Joy
Singh, appellant-respondent.

(Index No. 15004/05)

Michael Kennedy Lloyd, New York, N.Y., for appellant-respondent.

Finger & Finger, A Professional Corporation, White Plains, N.Y. (Daniel S. Finger
of counsel), for respondent-appellant.

In an action to recover unpaid rent, the defendant appeals, as limited by her brief, from so much of (1) an order of the Supreme Court, Westchester County (Colabella, J.), entered September 25, 2007, as denied her cross motion for summary judgment dismissing the complaint, and (2) an order of the same court entered December 27, 2007, as granted that branch of the plaintiff's motion which was for leave to renew and, upon renewal, granted the plaintiff's motion for summary judgment on the first cause of action, and the plaintiff cross-appeals from so much of the order entered September 25, 2007, as denied its motion for summary judgment on the first cause of action.

ORDERED that the cross appeal is dismissed, as academic, in light of our determination on the appeal from the order entered December 27, 2007, made upon renewal; and it is further,

ORDERED that the order entered September 25, 2007, is affirmed insofar as appealed from; and it is further,

December 9, 2008

Page 1.

MAGO, LLC v SINGH

ORDERED that the order entered December 27, 2007, is affirmed insofar as appealed from; and it is further,

ORDERED that one bill of costs is awarded to the plaintiff.

In moving for leave to renew its prior motion for summary judgment on its cause of action seeking to recover unpaid rent, the plaintiff landlord submitted certified proof of its compliance with the Multiple Dwelling Law registration requirements (*see* Multiple Dwelling Law § 325[2]). Under the circumstances, the Supreme Court providently exercised its discretion in granting the plaintiff leave to renew since it had, in effect, previously denied the plaintiff's motion for summary judgment on the ground that it had failed to submit certified proof of compliance with the registration requirements of the Multiple Dwelling Law (*see* CPLR 2221[e]; *Gillis v Toll Land XIII Ltd. Partnership*, 309 AD2d 734).

Proof of the plaintiff's compliance with the Multiple Dwelling Law registration requirements cured any defects in the registration of the subject multiple dwelling, and thus, the plaintiff's prior noncompliance does not bar recovery of retroactive rent (*see Chan v Adossa*, 195 Misc 2d 590, 593; *9 Montague Terrace Assoc. v Feurer*, 191 Misc 2d 18, 21). Through proof of its compliance with the Multiple Dwelling Law registration requirements, as well as the undisputed fact that during the relevant nine-month period, the defendant tenant occupied the subject apartment but did not pay rent in the agreed-upon amount of \$731.94 per month, the plaintiff established, prima facie, that it was entitled to recover unpaid rent for a period of nine months in the sum \$6,587.46 (*see Chan v Adossa*, 195 Misc 2d at 593; *9 Montague Terrace Assoc. v Feurer*, 191 Misc 2d at 21). In opposition, the defendant failed to raise a triable issue of fact.

The parties' remaining contentions are without merit.

MASTRO, J.P., MILLER, BALKIN and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court