

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

D33371  
O/kmb

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Argued - November 10, 2011

MARK C. DILLON, J.P.  
DANIEL D. ANGIOLILLO  
ANITA R. FLORIO  
THOMAS A. DICKERSON, JJ.

2010-11903

DECISION & ORDER

Orange & Rockland Utilities, Inc., respondent,  
v Vincent Ferretti, appellant.

(Index No. 10749/08)

Rosenwasser Law, P.C., Montgomery, N.Y. (Moriah M. Niblack of counsel), for appellant.

Paul B. Phinney III, Blauvelt, N.Y., for respondent.

In an action to recover unpaid utilities fees, the defendant appeals from a judgment of the Supreme Court, Orange County (Bartlett, J.), dated November 12, 2010, which, upon a decision of the same court dated September 2, 2010, made after a nonjury trial, is in favor of the plaintiff and against him in the principal sum of \$53,237.98.

ORDERED that the judgment is affirmed, with costs.

In October 2008 the plaintiff commenced this action against the defendant to recover the value of unmetered electricity which the defendant obtained for premises he owned in the Town of Greenville (hereinafter the subject property). On June 3, 2009, the defendant pleaded guilty in the County Court, Orange County (Freehill, J.), to the class D felony of grand larceny in the third degree (*see* Penal Law § 155.35). During the plea allocution, the defendant admitted to the elements of that crime, stealing property from the plaintiff valued in excess of \$3,000 by diverting the electric meter for the subject property. Thereafter, the plaintiff commenced this action and, after a nonjury trial, a judgment was entered in favor of the plaintiff and against the defendant in the principal sum of \$53,237.98.

December 20, 2011

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Contrary to the defendant's contention, the damages awarded to the plaintiff were not based on mere speculation and guesswork, but rather, were properly estimated based on reasonable inferences drawn from the evidence presented by the plaintiff at trial (*see Rocha v Consolidated Edison Co. of N.Y.*, 22 NYS2d 157, 158-159; *see generally Story Parchment Co. v Paterson Parchment Paper Co.*, 282 US 555, 563; *Shoecraft v BBS Automotive Group, Inc.*, 48 AD3d 786, 787).

DILLON, J.P., ANGIOLILLO, FLORIO and DICKERSON, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court