

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

382

CA 10-00906

PRESENT: CENTRA, J.P., FAHEY, CARNI, GREEN, AND GORSKI, JJ.

IN THE MATTER OF JON M. LADELFA, AS
ADMINISTRATOR OF THE GOODS, CHATTELS AND
CREDITS OF CHARLES MICHAEL LADELFA,
DECEASED, PETITIONER-RESPONDENT.

MEMORANDUM AND ORDER

GERALD A. CONIGLIO, OBJECTANT-APPELLANT.

GERALD A. CONIGLIO, OBJECTANT-APPELLANT PRO SE.

Appeal from a decree of the Surrogate's Court, Livingston County (Dennis S. Cohen, A.S.), entered June 15, 2009. The decree judicially settled the account of Jon M. LaDelfa, Administrator of the Goods, Chattels and Credits of Charles Michael LaDelfa, deceased.

It is hereby ORDERED that the decree so appealed from is unanimously modified on the law by granting objectant's claim against the estate and as modified the decree is affirmed without costs and the matter is remitted to Surrogate's Court, Livingston County, for further proceedings in accordance with the following Memorandum: Objectant appeals from a decree of Surrogate's Court that settled the final account of petitioner, the administrator of decedent's estate, and, in so doing, denied objectant's claim against the estate for unpaid rent allegedly owed to him by decedent. We agree with objectant that the Surrogate erred in denying his claim. We therefore modify the decree accordingly, and we remit the matter to Surrogate's Court for further proceedings. Once objectant's claim was allowed by petitioner, as the administrator, and no parties who would be adversely affected by the claim filed objections thereto, the claim was prima facie valid (see SCPA 1807 [1]; *Matter of Dole*, 168 App Div 253; *Matter of Mayer*, 46 Misc 2d 537, 540). Indeed, it was "just as effective . . . as a judgment of a court of competent jurisdiction" (*Matter of Warrin*, 56 App Div 414, 416). The Surrogate was thus required to "confirm the allowance . . . and direct that [it] be paid" (*Matter of Fitzpatrick*, 123 Misc 779, 781), and the Surrogate could not require petitioner, as the administrator, to prove that the claim was legally valid (see *Matter of Myers*, 36 App Div 625, 627; *Matter of Wilson*, 127 Misc 518, 522-523).

To the extent that objectant raises arguments on behalf of petitioner, who also had a claim rejected (see generally SCPA 1805), those arguments are not properly before this Court because petitioner has not taken an appeal from the decree (see *Hecht v City of New York*,

60 NY2d 57, 63).

Entered: March 25, 2011

Patricia L. Morgan
Clerk of the Court