

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

344

CA 11-00963

PRESENT: CENTRA, J.P., FAHEY, LINDLEY, SCONIERS, AND MARTOCHE, JJ.

RENAULD DAVIS, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

ESTELLE VALLIE, DEFENDANT-RESPONDENT.

FRANK S. FALZONE, BUFFALO, FOR PLAINTIFF-APPELLANT.

BARTH SULLIVAN BEHR, BUFFALO (LAURENCE D. BEHR OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered December 21, 2010 in a personal injury action. The judgment dismissed the complaint upon a jury verdict.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Plaintiff commenced this action seeking damages for injuries he allegedly sustained on property owned by defendant. According to plaintiff, he was injured as a result of defendant's negligent failure to maintain and service a defective storm glass window. Plaintiff contends that Supreme Court erred in admitting in evidence a Rental Assistance Corporation Inspection Report (hereafter, Inspection Report) and the lease agreement between defendant and the tenant of the property in question. Plaintiff objected to the admission in evidence of the Inspection Report only on the ground that it was not authenticated pursuant to CPLR 4518 and therefore constituted hearsay. He failed to object to that report on any of the grounds raised on appeal or to object to the admission in evidence of the lease agreement, and thus his contention is not preserved for our review (*see Ames v Shute*, 90 AD3d 1629, 1630; *Ciesinski v Town of Aurora*, 202 AD2d 984, 985; *see generally* CPLR 5501 [a] [3]). Even assuming, arguendo, that the court erred in admitting the Inspection Report in evidence, we conclude that the error is harmless (*see generally Rizzuto v Getty Petroleum Corp.*, 289 AD2d 217, 217-218).

Entered: March 16, 2012

Frances E. Cafarell
Clerk of the Court