

**37 W. 14th St. Assoc. LLC v Heja Holdings Inc.**

2023 NY Slip Op 31422(U)

April 28, 2023

Supreme Court, New York County

Docket Number: Index No. 653450/2022

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

*Justice*

-----X

37 W. 14TH ST. ASSOCIATES LLC,

Plaintiff,

- v -

HEJA HOLDINGS INC., JEREMY B. SHOYKHET,

Defendant.

-----X

INDEX NO. 653450/2022

MOTION DATE 04/24/2023

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24

were read on this motion to/for JUDGMENT - DEFAULT.

Plaintiff's motion for a default judgment as against defendant Shoykhet is granted and his cross-motion is denied.

**Background**

In this landlord-tenant dispute, plaintiff (the landlord) contends that defendants failed to pay rent and additional rent. The corporate defendant is the tenant and defendant Shoykhet is the guarantor.

Plaintiff contends that defendant Shoykhet has not answered or timely responded to the complaint. It also maintains that it thinks the corporate entity is not an actual corporation and so does not seek any relief against this entity in the notice of motion. Plaintiff observes that it agreed to extend defendant Shoykhet's time to answer until January 25, 2023. When no answer was received, counsel for plaintiff reached out to Shoykhet on February 6, 2023 to inquire about the status of his answer (NYSCEF Doc. No. 18). Defendant claimed the answer would be sent shortly, but no answer was ever filed.

Defendant Shoykhet insists that there was a casualty event that means that he is not liable for rent that accrued during a certain time period. He claims the space was unusable during many months. He wants the Court to wait until a similar case (although the specific case is not identified) is resolved and wants additional time to “properly research the matter” (NYSCEF Doc. No. 21).

In opposition to the cross-motion, plaintiff insists that defendant vacated possession of the premises upon the expiration of the lease and that he owes \$56,475.62. It speculates that defendant is claiming that COVID-19 constitutes a casualty event that prevents plaintiff from recovering rent for certain periods and argues that Court have already rejected that argument.

In reply, defendant claims that there is a legitimate disagreement about the money plaintiff is seeking and that he has not yet obtained legal representation. He wants more time to do so. Defendant claims it is a violation of his “due process” rights to prevent him from having the chance to raise a defense.

### **Discussion**

The Court grants plaintiff’s motion and denies the cross-motion as defendant did not offer a reasonable excuse for his failure to timely answer. The timeline presented to this Court shows that plaintiff extended defendant’s time to answer until nearly the end of January 2023. When defendant missed that deadline, plaintiff’s counsel reached out to defendant a few days later and defendant promised to file an answer (but he never did). Plaintiff then waited until March 28, 2023 to make the instant motion and, yet again, defendant has yet to file an answer; he did not even attach a proposed answer to his cross-motion.

While this Court prefers to decide cases on the merits, it simply cannot permit a party to indefinitely delay a case for months and months. Defendant’s claim that he needs more time to

find an attorney or answer does not compel the Court to grant his cross-motion. Defendant filed a notice of appearance on October 26, 2022 (NYSCEF Doc. No. 8). That means he has known about this case for at least six months. That is more than enough time to find a lawyer or answer. Requesting additional time to delay this case is not appropriate under these circumstances.

The Court also observes that “[b]ecause no default judgment had yet been entered, defendants were not required to demonstrate a meritorious defense” (*Epstein Becker & Green, P.C. v Samson Mgt. LLC*, 188 AD3d 454, 455, 131 NYS3d 892 (Mem) [1st Dept 2020]). Defendant was only required to raise a reasonable excuse and he failed to do so.

The Court grants plaintiff’s motion and awards plaintiff the \$56,475.62 it seeks. Defendant did not raise any specific reasons for why this amount is incorrect. For instance, plaintiff attached a statement (NYSCEF Doc. No. 5) and defendant did not point to any charge that he disputes.

The Court finds that although plaintiff is entitled to legal fees, it must make a separate application for such fees by May 24, 2023 as it did not seek a specific amount or include any invoices.

Accordingly, it is hereby

ORDERED that plaintiff’s motion for a default judgment is granted, defendant’s cross-motion is denied and the Clerk is directed to enter judgment in favor of plaintiff and against defendant Shoykhet only in the amount of \$56,475.62 plus statutory interest from December 15, 2020 (a reasonable midpoint) along with costs and disbursements upon presentation of proper papers therefor; and it is further

ORDERED that the issue of reasonable legal fees is severed and plaintiff shall make a separate motion for such fees on or before May 24, 2023; and it is further

ORDERED that the matter is severed and dismissed as against defendant Heja Holdings, Inc. as neither party disputes that this entity no longer exists.

4/28/2023

DATE



ARLENE P. BLUTH, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE