

**City of New York v Ojofeitimi**

2024 NY Slip Op 32977(U)

August 22, 2024

Supreme Court, New York County

Docket Number: Index No. 452262/2023

Judge: Hasa A. Kingo

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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. HASA A. KINGO PART 05M

Justice

-----X

THE CITY OF NEW YORK

Plaintiff,

- v -

GODWIN OJOFEITIMI,

Defendant.

-----X

INDEX NO. 452262/2023

MOTION DATE 07/03/2024

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19

were read on this motion for DEFAULT JUDGMENT.

Upon the foregoing documents, it is hereby

ORDERED and ADJUDGED that Plaintiff City of New York's ("Plaintiff or "the City") instant motion for a default judgment against Defendant Godwin Ojofeitimi ("Defendant") is GRANTED.

BACKGROUND

This matter comes before the court on the City's unopposed motion for a default judgment pursuant to CPLR § 3215 against Defendant. Plaintiff seeks judgment for unpaid penalties resulting from violations issued by the Department of Buildings ("DOB") against Defendant, owner of the premises located at 103 Malcolm X Blvd., Block 1622, Lot 1, in Kings County, New York ("Subject Premises").

On December 6, 2019, four violations—identified as 354-553-51K ("51K"), 354-553-52M ("52M"), 354-553-53Y ("53Y"), and 354-553-54X ("54X")—were issued against Defendant. These violations pertained to the unauthorized conversion of the Subject Premises in violation of

New York City Administrative Code (“Admin. Code”) §§ 28-210.1 (violations 51K, 52M, and 53Y) and 28-210.3 (violation 54X), with civil penalties imposed under Admin. Code § 28-202.1.

The Office of Administrative Trials and Hearings (“OATH”) conducted hearings on September 21, 2020, which Defendant failed to attend, resulting in default decisions and the imposition of penalties amounting to \$70,000.00 for each violation. Notably, the September 21, 2020, default for violation 52M was vacated, and a rescheduled hearing was held on December 3, 2020. Once again, Defendant failed to appear, leading to another default decision and the re-imposition of a \$70,000.00 penalty. The default decisions for violations 51K, 53Y, and 54X remained intact, as no corrective action was undertaken by Defendant for these violations.

In the aftermath, Defendant took steps to file Certificates of Correction for violations 51K, 52M, and 53Y, which were accepted by the DOB, thereby reducing the penalties for these violations. However, no Certificate of Correction was filed for violation 54X, leaving the penalty at \$70,000.00. Despite repeated attempts by Plaintiff to engage with Defendant for resolution, including the provision of customer service contacts for OATH and DOB, Defendant failed to pay the outstanding penalties, which now total \$242,500.00.

### **DISCUSSION**

Pursuant to CPLR § 3215(c), when a defendant fails to appear, plead, or otherwise proceed in an action, the plaintiff is entitled to seek a default judgment. The failure to respond to the complaint constitutes an admission of all factual allegations contained therein. In *Woodson v. Mendon Leasing Corp.*, 100 NY2d 62, 71 (2003), the Court of Appeals reinforced that a default in answering equates to an admission of all facts and reasonable inferences therefrom.

Further, under New York City Charter § 1049-a(d)(1)(d) and 48 RCNY § 6-20, a respondent's failure to appear at an OATH hearing is deemed an admission of liability, warranting the imposition of penalties in the maximum amount prescribed by law.

In this case, Defendant's non-appearance at the September 21, 2020, and December 3, 2020, OATH hearings resulted in the imposition of substantial penalties, which remain unpaid. The City's application for a default judgment is supported by the record evidence and Defendant's failure to contest or otherwise address the violations. Indeed, the Court finds that Plaintiff has established a prima facie case for the relief sought. Defendant's failure to appear at both the OATH hearings and in this action, despite proper service and multiple notices, constitutes a clear admission of liability. The penalties were lawfully imposed, and the City is entitled to recover the full amount sought.

The court acknowledges that while there is no formal written decision recounting the record evidence by the OATH Hearing Officer, the lack of such documentation does not undermine the meritorious nature of Plaintiff's claim. Defendant's continued disregard for the legal process, despite opportunities to rectify the situation, necessitates the granting of the City's motion.

Based on the foregoing, it is hereby

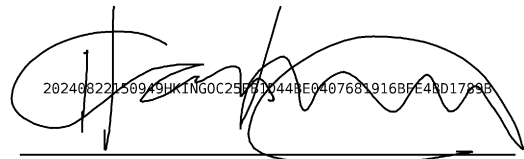
ORDERED and ADJUDGED that Plaintiff's motion for a default judgment is GRANTED. The City of New York is awarded judgment against the Defendant, Godwin Ojofeitimi, in the amount of \$242,500.00, representing the total penalties assessed for violations 51K, 52M, 53Y, and 54X; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment accordingly.

This constitutes the decision, order, and judgment of the court.

8/22/2024

DATE



HASA A. KINGO, 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