

420 E. 80th LLC v Park
2026 NY Slip Op 31596(U)
April 14, 2026
Supreme Court, New York County
Docket Number: Index No. 651510/2025
Judge: Emily Morales-Minerva
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 42M

-----X	
420 EAST 80TH LLC,	INDEX NO. <u>651510/2025</u>
Plaintiff,	MOTION DATE <u>09/09/2025</u>
- v -	MOTION SEQ. NO. <u>001</u>
JISOOK PARK, SUNGSU KIM	
Defendants.	

**DECISION + ORDER ON
MOTION**

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16
were read on this motion to/for JUDGMENT - DEFAULT.

APPEARANCES:

Borah, Goldstein, Nahins & Goidel, P.C., New York, NY (Mark Krassner, Esq., of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this action to recover amounts owed for unpaid rent pursuant to a lease agreement, plaintiff 420 EAST 80th LLC (plaintiff) moves, pursuant to CPLR § 3215, for an order granting it leave to enter a default judgment against defendants JISOOK PARK and SUNGSU KIM (defendants) in the amount of \$17,156.02, plus statutory interest from April 01, 2025, costs, and disbursements.

Defendants do not appear or submit opposition to the motion (sequence number 01).

When a defendant fails "to appear, plead or proceed to trial of an action reached and called for trial, or when the court orders a dismissal for any other neglect to proceed, the plaintiff may seek a default judgment against [the defendant]" (CPLR § 3215 [a]). To establish entitlement to a default judgment, plaintiff must file (1) proof it served defendant with the summons and complaint, and (2) "proof of the facts constituting the claim, the default, and the amount due . . . by affidavit made by the party" (see CPLR § 3215 [f]; see also Woodson v Mendon Leasing Corp., 100 NY2d 62, 70 [2003] [providing that "an applicant for a default judgment [must] file 'proof by affidavit made by the party of the facts constituting the claim'"]; 231st Riverdale LLC v 7 Star Home Furniture Inc., 198 AD3d 524, 525 [1st Dept 2021]; Feffer v Malpeso, 210 AD2d 60 [1st Dept 1994]).

Here, plaintiff submits the affirmations of service (NYSCEF Doc. Nos. 02 and 03); the affirmation of additional mailing (NYSCEF Doc. No. 04); the affirmation of Tomas Rosenthal, managing agent for plaintiff (NYSCEF Doc. No. 06); the lease agreement (NYSCEF Doc. No. 08); the rent ledger (NYSCEF Doc. No. 09); and an attorney affirmation (NYSCEF Doc. No. 10) (see CPLR § 3215 [f]; see also Licurgo-Villar v Samouha, 227 AD3d 619, 620

[1st Dept 2024]; Guzetti v City of New York, 32 AD3d 234 [1st Dept 2006]).

However, the Federal Servicemembers Civil Relief Act and New York State Soldiers' and Sailor's Civil Relief Act requires a party seeking a default judgment against an individual defendant to submit proof that said defendant was not in military service at the time of the default, which plaintiff has failed to do (see 50 USC § 3931 [b] [1] [emphasis added]; see also Military Law § 309 [1]). Therefore, the motion (seq. no. 01) must be denied.

Notwithstanding this defect, the Court notes that plaintiff fails to establish its entitlement to the full amount sought in the instant motion. The rent ledger includes an entry dated April 02, 2025 for \$4,200.00, labeled "damages - general", but plaintiff provides no explanation as to the nature of these alleged damages, the basis for their calculation, or the specific lease provision authorizing such charge (see NYSCEF Doc. No. 09, rent ledger; see also NYSCEF Doc. No. 06, affirmation of Tomas Rosenthal [stating only that, in addition to the monthly rent of \$4,050.00, "pursuant to paragraph 10B of the lease, defendants agreed to pay plaintiff late fees, water, sewer, and gas charges"])).

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 001), pursuant to CPLR § 3215, for a default judgment, is dismissed without prejudice; it is further

ORDERED that, within fifteen days from the date of this decision and order, plaintiff shall serve a copy of this order, with notice of entry, upon defendants; it is further

ORDERED that plaintiff shall bring a renewed default judgment motion, with sufficient evidence, within 90 days from the date of this decision and order; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

4/14/2026
DATE


EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					REFERENCE