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2023-07-17

### 3380 Nostrand LLC v. Prusiecka

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#### Recommended Citation

"3380 Nostrand LLC v. Prusiecka" (2023). *All Decisions*. 1052.  
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Civil Court of the City of New York

County of Kings  
Part 1

Index Number 303013/21  
Motion Cal. # \_\_\_\_\_ Motion Seq. # 2

**DECISION/ORDER**

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

3380 Nstrand LLC  
Claimant(s)/Plaintiff(s)/Petitioner(s)  
against  
Ewa Prusicka  
Defendant(s)/Respondent(s)

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	<u>1, 2</u>
Order to Show Cause and Affidavits Annexed.....	_____
Answering Affidavits .....	<u>6, 7</u>
Replying Affidavits.....	<u>14</u>
Exhibits .....	<u>35, 8, 13</u>
Other.....	_____

Upon the foregoing cited papers, the Decision/Order on this Motion to grant

leave to interpose an answer and then vacate stay as follows:

Petitioner commenced this non-payment case on April 26, 2021. Petitioner made a motion to vacate the ERAP stay which was granted to the extent of restoring the case to the calendar on April 21, 2023. On April 21, 2023 respondent, Pro Se, entered into a stipulation which amended the petition to date and adjourned the case.

On May 9, 2023 respondent's counsel filed a notice of appearance and on May 26, 2023 respondent's counsel filed the within Motion.

Respondent's affidavit in support states that she did not realize she was adding two years worth of rent

Date \_\_\_\_\_ Judge, Civil Court 1045

\_\_\_\_\_ for \_\_\_\_\_  
\* to vacate stay of and leave to interpose an answer



Civil Court of the City of New York

County of King's  
Part T

Index Number 303013/21  
Motion Cal. # \_\_\_\_\_ Motion Seq. # (2)

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed....	_____
Answering Affidavits .....	_____
Replying Affidavits.....	_____
Exhibits .....	_____
Other.....	_____

3380 NostRAND LLC

Claimant(s)/Plaintiff(s)/Petitioner(s)  
against

Ena Prusiecka

Defendant(s)/Respondent(s)

Upon the foregoing cited papers, the Decision/Order on this Motion to \_\_\_\_\_

is as follows:

to this proceeding and that the landlord would <sup>have</sup> needed to prove that it would not be prejudicial <sup>to her</sup> to do so. Respondent's attorney states in his affirmation that without the advise of counsel respondent waived a significant meritorious defense and that any prejudice Ms. Prusiecka might experience in exercising her rights and defenses out weighs prejudice to petitioner. Respondent's atty continues stating that ~~because~~ if petitioner ~~did not~~ <sup>just</sup> submitted the required documentation in the landlord ERAP portal a year ago the petition plus more would have been paid. Lastly, respondent's atty states that this proceeding should be dismissed as ~~it~~ <sup>respondent's</sup> ~~it~~ <sup>was</sup>

Date

Judge, Civil Court

Civil Court of the City of New York  
County of Kings  
Part 1

Index Number 303013/21  
Motion Cal. # \_\_\_\_\_ Motion Seq. # 2

**DECISION/ORDER**

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3380 Nstrand LLC  
Claimant(s)/Plaintiff(s)/Petitioner(s)  
against  
Ewa Prusiecka  
Defendant(s)/Respondent(s)

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed.....	_____
Answering Affidavits .....	_____
Replying Affidavits.....	_____
Exhibits .....	_____
Other.....	_____

Upon the foregoing cited papers, the Decision/Order on this Motion to \_\_\_\_\_

is as follows:

has been rendered moot under Real Property Actions and Proceedings Law ("RPAPL") § 731(4). Respondent argues that if petitioner filled ~~out~~ the necessary documentation for ERAP the full amount sought in the petition would have been paid. Respondent also argues <sup>in the alternative</sup> that the amount in the petition is waived by petitioner pursuant to the ERAP statute, because respondent did not complete the necessary documentation.

and subject to  
to determine  
stipulation  
§ 731(4)

In 270 Glenmore Ave LLC v. Blundet, 2017 NY Slip Op 50437(u) (App. Term 2nd Dept 2017), the court vacated a stipulation entered into by a prose litigant in a holdover proceeding where she was able to prove a

\_\_\_\_\_ Date \_\_\_\_\_ Judge, Civil Court

Civil Court of the City of New York  
County of Kings  
Part 1

Index Number 303013/21  
Motion Cal. # \_\_\_\_\_ Motion Seq. # (2)

**DECISION/ORDER**

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

3380 Nostrand LLC  
Claimant(s)/Plaintiff(s)/Petitioner(s)  
against  
Ewa Prusiecka  
Defendant(s)/Respondent(s)

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed....	_____
Answering Affidavits .....	_____
Replying Affidavits.....	_____
Exhibits .....	_____
Other.....	_____

Upon the foregoing cited papers, the Decision/Order on this Motion to \_\_\_\_\_

is as follows:

defenses to the proceeding requiring its dismissal.

In opposition petitioner states that the landlord has provided all the necessary documentation to ERAP.

The Court rules that the provisional approval attached as exhibit "B" in support of the motion is a provisional approval for twelve months rent and up to three months of future rent. The petition only sought seven months rent. If ERAP had paid satisfying the petition, the petition would be subject to dismissal pursuant to ERAP § 731 (4). Accordingly, the stipulation of April 21, 2023

\_\_\_\_\_  
Date Judge, Civil Court

4019

Civil Court of the City of New York

County of Kings  
Part T

Index Number 303013/21  
Motion Cal. # \_\_\_\_\_ Motion Seq. # (2)

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	_____
Order to Show Cause and Affidavits Annexed.....	_____
Answering Affidavits .....	_____
Replying Affidavits.....	_____
Exhibits .....	_____
Other.....	_____

3380 Nostrand LLC  
 Claimant(s)/Plaintiff(s)/Petitioner(s)  
 against  
 Ewa Pruseicka  
 Defendant(s)/Respondent(s)


Upon the foregoing cited papers, the Decision/Order on this Motion to \_\_\_\_\_

is as follows:

is vacated; ~~respondent never agreed to amendment.~~  
 That part of respondent's motion that seeks leave to interpose an answer is also granted.  
 The case is rescheduled to the Part T calendar August 4, 2023 at 11:30 AM in ~~Room 503~~ Room 503.

This is the Decision/Order of the Court. The Court will upload this Decision/Order to NYSCEF.

7/13/23  
Date

  
 Judge, Civil Court  
 Hon. Elizabeth Donoghue  
 Judge, Housing Court

5045