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1755 Jarvis LLC v. Felix

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[*1]

1755 Jarvis LLC v Felix
2023 NY Slip Op 51110(U) [80 Misc 3d 132(A)]
Decided on October 18, 2023
Appellate Term, First Department
Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.
This opinion is uncorrected and will not be published in the printed Official Reports.

Decided on October 18, 2023
SUPREME COURT, APPELLATE TERM, FIRST DEPARTMENT
PRESENT: Brigantti, J.P., Tisch, Michael, JJ.
570669/23

1755 Jarvis LLC, Plaintiff-Appellant,

against

Ramona Felix, Defendant-Respondent.

Plaintiff appeals from an order of the Civil Court of the City of New York, Bronx County (Jeffrey S. Zellan, J.), entered April 17, 2023, which granted defendant's motion to vacate a default judgment.

Per Curiam.

Order (Jeffrey S. Zellan, J.), entered April 17, 2023, affirmed, without costs.

Given the strong public policy of this State to dispose of cases on the merits (*see Chevalier v. 368 E. 148th St. Assoc., LLC*, 80 AD3d 411, 414 [2011]), we find that Civil Court providently exercised its discretion in granting defendant's motion to vacate the default judgment. The default was not intentional or prejudicial, and defendant promptly moved for vacatur relief upon learning of the default judgment entered against her. The record also shows the existence of a potentially meritorious defense to this action for unpaid "rent" allegedly accruing under a residential lease that, according to the complaint, "expired on May 31, 2017," inasmuch as the record so far developed indicates that the lease was previously cancelled upon issuance of a warrant of eviction against tenant in a prior summary

proceeding (*see* former RPAPL 749[3] [amended L 2019, ch 36, § 1, part M, § 19, eff. June 14, 2019]; *Mann v Munch Brewery*, 225 NY 189, 194 [1919])

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

I concur I concur I concur

Decision Date: October 18, 2023

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