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### 894 Belmont Avenue v. Doe

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CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF KINGS: HOUSING PART I

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894 BELMONT AVENUE,  
Petitioner

Index No. 302723/24

**DECISION/ORDER**

-against-

KEVIN "DOE",

344

Respondent.  
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Present: Hon. Elyssa O. Slutzky, JHC

Recitation, as required by CPLR § 2219(a), of the papers considered in the review of Respondent's Notice of Motion (Seq. 1) and any other relief as the court may find appropriate:

**Papers Numbered**

- Notice of Motion with Affirmations and Exhibits.....NYSCEF #9-15
- Affidavit in Opposition to Motion.....NYSCEF #16
- Affidavit in Reply to Motion.....NYSCEF #17

Respondent brings the instant motion seeking an Order dismissing this proceeding pursuant to CPLR §3211(a)(7) based upon Petitioner's failure to comply with RPAPL §741(3).10 by not adequately describing the premises to be recovered as well as its improper use of "Doe."

A review of the Petition reflects that the premises are described as "894 Belmont Avenue, 2nd Floor, Brooklyn, New York 11208 ("premises"). However, a review of the ICard shows that two units exist on the second floor and each unit has its own entrance. Moreover, Respondent claims the premises is subdivided with him and another occupant having separate leases, paying rent separately and occupying their own rooms.

A review of the Petition also reflects that Petitioner utilized the pseudonym Kevin "Doe" however, Respondent claims Petitioner knew his name as he has resided in the premises for sixteen years, receives mail at the premises addressed to "Kelvin Dove" and pays his rent directly to Petitioner. In fact, Mr. Dove attaches a rent receipt to his motion, from Petitioner to him, which lists his name as Kelvin Dove.

In opposition, Petitioner submits a brief and conclusory Affidavit, failing to address the receipt given by Petitioner to Respondent in the name Kelvin Dove nor denying that the second floor contains two apartments.

Based upon the foregoing, this proceeding is dismissed. This Court finds that the description of the premises is not an adequate description of the premises from which removal is sought, therefore depriving this Court of jurisdiction. Clarke v. Wallace Oil Co., 284 AD2d 492 [2<sup>nd</sup> Dept 2001].

An accurate description of the premises, missing herein, is so fundamental that such inaccuracy is a fatal defect and may not be corrected or disregarded. 272 Sherman, LLC v. Vasquez, 4 Misc. 3d 370, 372 (Civ. Ct., New York County 2004). Moreover, this proceeding must be dismissed because it is shown from the receipt provided by Respondent that Petitioner knew his name to be Kelvin Doe. As such, Petitioner could not avail himself of the use of the pseudonym "Doe" to name Respondent. George Tut & Co. v. Doe, 20 Misc.3d 815 (Civ. Ct., Kings County 2008).

This constitutes the Decision/Order of this Court.

Dated: October 31, 2024

  
Elyssa O. Slutzky, JHC