

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

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Index No. 84161/2014

MARINA TOWERS ASSOCIATES L.P.

Petitioner

NOTICE OF ENTRY

-against-

KIM LURIE

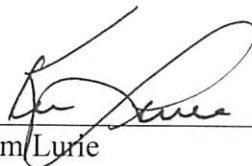
Respondent.

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PLEASE TAKE NOTICE that the attached is a true copy of a Decision/Order in this matter that was entered in the Office of the Clerk of the Civil Court, City of New York on February 13, 2015.

Dated: February 13, 2015

Yours, etc.



Kim Lurie
Respondent
355 South End Avenue #34E
New York, N.Y. 10280

TO:
Rappaport, Hertz, Cherson & Rosenthal P.C.
118-35 Queens Blvd 9th Floor
Forest Hills, N.Y. 11375

RECEIVED
FEB 13 2015
NEW YORK COUNTY
HOUSING COURT

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK
HOUSING PART E, RM. 526
DECEMBER 15, 2014

INDEX NO. 084161/2014
MOTION SEQUENCE NO.: 001

MARINA TOWERS ASSOCIATES L.P.
PETITIONER(S),
AGAINST
LURIE KIM
RESPONDENT(S)

DECISION/ORDER

PRESENT:

JUDGE

RECITATION, AS REQUIRED BY CPLR 2219(A), OF THE PAPERS CONSIDERED IN THE REVIEW OF THIS MOTION OF RESP REQUEST DISMISSING THE PETITION.

PAPERS

NUMBERED

NOTICE OF MOTION AND AFFIDAVITS ANNEXED.....	1
ORDER TO SHOW CAUSE AND AFFIDAVITS ANNEXED....	
ANSWERING AFFIDAVITS.....	2
REPLYING AFFIDAVITS.....	3
EXHIBITS.....	
STIPULATIONS.....	
OTHER.....	

UPON THE FOREGOING CITED PAPERS, THE DECISION/ORDER IN THIS MOTION IS AS FOLLOWS:

12/15 - The motion is submitted and hold 1 week.
2/15 - "On a CPLR 3211 motion to dismiss, the court will accept the facts as alleged in the complaint as true, accord the plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any recognizable legal theory." *Elson v Mattingly*, 84 NY2d 83 (1994). Based upon this standard the resp's motion to dismiss so much of the petition as seeks rent for April - July 2014 is granted as there was no agreement to pay rent at that time (see e.g. *Matter of Jaroslaw v Lehigh Valley*, 23 NY2d 99 (1969) and otherwise denied. Resp admits March 2014 rent was not paid and petition denied. *ADJOURNMENTS* *REVENUE HOUSING COURT* rent for Aug 2014 & the matter reverts to judicial under these circumstances. See e.g. *Mengoni v Elson*, 29 Misc 3d 130A (AT 1st Dep't 2010).

12/15 - Resp is to serve & file an answer within 10 days of the date of this decision. The matter is returned to the Part E

AFFIDAVIT OF SERVICE

STATE OF NEW YORK, COUNTY OF NEW YORK, ss.

I, Peace Hiotakis, being duly sworn, depose and say that: I am not a party to the within action. I am over 18 years of age; I reside within the state of New York; and on February 13, 2015, I served the within copies of the Notice of Entry and Decision and Order upon Rappaport, Hertz, Cherson & Rosenthal P.C., the Petitioner herein named, at 118-35 Queens Blvd 9th Floor Forest Hills, N.Y. 11375, by depositing true copies thereof, enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within the State of New York, by regular mail.



Peace Hiotakis

Sworn to before me
on February 13, 2015



Notary Public

INGRID GHERMAN
Notary Public, State of New York
No. 02GH4815448
Qualified in New York County 19
Commission Expires 1-31-20 19

Lower Court Index No: 084161/2014

CIVIL COURT OF THE CITY OF NEW YORK
APPELLATE TERM FIRST DEPARTMENT

MARINA TOWERS ASSOCIATES L.P.

Petitioner-Respondent

- against -

KIM LURIE,

Respondent- Appellant

**NOTICE OF ENTRY
AND
ACCOMPANYING PAPERS**

Kim Lurie
Respondent - Appellant- Pro Se
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New York, N.Y. 10280
516 476-1774