Superior Court of New Jersey

ASPEN RIVERPARK APTS, Plaintiff-Respondent, v. NADIA HUGHES, Defendant-Appellant.	APPELLATE DIVISION DOCKET NO: A-002671-24-T2 Civil Action On Appeal from a Final Judgment of the New Jersey Superior Court, Special Civil Part, Essex County, LT- 000790-25 Sat Below: Hon. Annette Scoca, J.S.C. Hon. Jennifer Critchley. J.S.C.

BRIEF OF DEFENDANT/APPELLANT NADIA HUGHES

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On the Brief

TABLE OF CONTENTS

PAGES

TABLE OF JUDGMENTS, ORDERS AND RULINGS

PAGES

JUDGMENTS, ORDERS AND RULINGS

TABLE OF AUTHORITIES

STATUTES **PAGES**

TABLE OF CONTENTS TO APPENDIX

VOLUME 1: Da1 – Da140

PRELIMINARY STATEMENT

This appeal is from a judgment for possession entered against Defendant by way of default and which was left undisturbed following a hearing, held on April 28, 2025 before the Honorable Jennifer Critchley, at which Plaintiff's witness and Plaintiff's counsel made misrepresentations on the very issues material to the court's decision.

PROCEDURAL HISTORY

In August 2023, Nadia Hughes and her children began residing at the federally subsidized housing complex owned and operated by Plaintiff. Da14, Da62.

By letter dated October 29, 2024, and signed by property manager Deborah Straut, Plaintiff informed Ms. Hughes that, based on its recent review of her income and family composition, it had adjusted her rent to $0.00, effective September 1, 2024. Da28, Da75.

On November 7, 2024, Plaintiff issued Ms. Hughes a "Thirty-Day Notice to Pay Rent or Quit." Da13, Da77.

On January 14, 2025, Plaintiff filed this eviction action, alleging nonpayment of $7,062.00 in market rate rent due since September 2024. Da1.

On February 25, 2025, Ms. Hughes, appearing pro se, checked in at calendar call and thereafter unsuccessfully attempted to mediate with Plaintiff. Ms. Hughes then reported to the assigned courtroom. Thereafter, and with Judge Petrillo's permission, Ms. Hughes left the courthouse, her case unheard, to attend to an urgent personal matter.

On March 20, 2025, a default judgment for possession was entered in the amount of $10,580.00, and a warrant of removal subsequently issued. Da29.

On March 28, 2025, Ms. Hughes filed a pro se application for relief, asserting that the court lacked jurisdiction to enter judgment due to Plaintiff's failure to issue a valid notice of termination.

On April 16, 2025[1], the return date, Ms. Hughes appeared pro se before the Honorable Annette Scoca. The hearing concluded with the court denying Ms. Hughes' application to dismiss, but entering an Order for Orderly Removal. Da32.

On April 22, 2025[2], Ms. Hughes made a second application to have the judgment set aside and, Essex Newark Legal Services, which she had just retained, appeared on her behalf. The parties now appeared before the Honorable Jennifer Critchley. The matter was adjourned to April 28, 2025, so as to give her Honor an opportunity to review the prior hearing.

On April 25, 2025, Ms. Hughes submitted a brief in support of her motion.

On April 28, 2025[3], the parties again appeared before the Honorable Jennifer Critchley. The hearing concluded with the court denying Ms. Hughes' application to dismiss. (3T50:21-24).

On April 30, 2025, Ms. Hughes filed her notice of appeal. Da132.

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[1] Transcript for April 16, 2025 has number designation 1T.
[2] Transcript for April 22, 2025 has number designation 2T.
[3] Transcript for April 28, 2025 has number designation 3T.

On May 1, 2025, the trial court entered a written order confirming its denial of defendant's application to dismiss. Da33.

On June 23, 2025, the trial court granted Ms. Hughes a stay pending the outcome of her appeal.

STATEMENT OF FACTS

In August 2023, Nadia Hughes and her children began residing at the federally subsidized housing complex owned and operated by Plaintiff. Da14, Da62.

As rents at the property are subsidized under the Section 8 program, annually the landlord, in a process called recertification, must confirm tenants' household income and calculate their monthly rent portion.

In July 2024, Ms. Hughes' father passed away. Notwithstanding suffering the loss of her father, by July 31, 2024, Ms. Hughes had timely provided all the required documentation to her landlord for purposes of her annual recertification. Da27, Da73.

By letter dated October 29, 2024, and signed by property manager Deborah Straut, Plaintiff informed Ms. Hughes that, based on its recent review of her income and family composition, it had adjusted her rent to $0.00, effective September 1, 2024. Da28, Da75.

On November 7, 2024, Plaintiff, despite having just days earlier notified Ms. Hughes that her rent was $0.00, issued her a "Thirty-Day Notice to Pay Rent or Quit." This notice did not provide a termination of tenancy date. Da13, Da77.

On January 14, 2025, Plaintiff filed this eviction action, alleging nonpayment of $7,062.00 in market rent due since September 2024. Contrary to federal and state legal requirements, Plaintiff failed to attach to its complaint the four HUD required recertification reminder notices or a termination of rent subsidy notice. Da1.

On February 25, 2025, the return date, Ms. Hughes, appearing pro se, checked in at calendar call and, thereafter, unsuccessfully attempted to mediate with Plaintiff. Thereafter, Ms. Hughes reported to the assigned courtroom where she requested, and was given permission by Judge Petrillo, to leave the courthouse to tend to an urgent, personal matter. On that basis, Ms. Hughes left the courthouse without her case being heard.

On March 20, 2025, a default judgment for possession was entered in the amount of $10,580.00 and a warrant of removal subsequently issued. Da29.

On March 28, 2025, Ms. Hughes filed a pro se application for relief, asserting that the court lacked jurisdiction to enter judgment due to Plaintiff's failure to issue a valid notice of termination.

On April 16, 2025, the return date, Ms. Hughes, appearing pro se before the Honorable Annette Scoca, testified to having met with office management, on July 31, 2024, to do her recertification and that on August 7, 2024, her lease

had been renewed. (1T6:1-9). Ms. Hughes further testified that she had received paper statements from Plaintiff indicating her rent was $0.00. (1T7:1-3).

Following Ms. Hughes to the stand, Plaintiff's witness, Christina Cintron, testified that Plaintiff, not having all of Ms. Hughes' recertification documents by July 31, 2024, had terminated Ms. Hughes' subsidy resulting in her now being responsible for market rent. (1T16:2-5). Despite her testimony that the subsidy had been terminated, Ms. Cintron did not produce a written notice of subsidy termination for examination by the court or the defendant.

In rebuttal, Ms. Hughes testified to not having received a termination of subsidy notice. (1T18:16-17).

Thereafter, the court acknowledged Plaintiff's property manager, Deborah Straut's letter to Ms. Hughes, dated October 29, 2024, which reads, "This is to notify you that on the basis of our recent review of your income and family, your rent has been adjusted to $0.00." (1T22:24-25; 1T23:1-7); (1T24:13-17).

In response, Christina Cintron would only offer that she "did not know how that paper came about." (1T23:9); (1T23:14); (1T24:18-21).

Following Ms. Cintron's 'don't know where that paper came from' disclaimer and despite having in front of it the October 29th letter attesting to a $0.00 rent adjustment, the court then proceeded to find that Ms. Hughes had failed to recertify, resulting in her rent being increased to market rent. Having

pronounced its decision, the court, thereafter, issued Ms. Hughes an Order for Orderly Removal. (1T32:19-25).

On April 22, 2025, Ms. Hughes made a second application to have the judgment set aside and Essex-Newark Legal Services, which she had just retained, appeared on her behalf.

Now, before the Honorable Jennifer Critchley, Ms. Hughes reiterated that her rent had been adjusted by Plaintiff to $0.00, effective September 1, 2024, and that, as such, she did not owe rent. (2T5:1-4).

The court then scheduled a return date of April 28, 2025, so as to provide the court an opportunity to review the hearing Judge Scoca had conducted. (2T13:15-25).

On April 28, 2025, appearing again before the Honorable Jennifer Critchley, Ms. Hughes presented two defenses. First, that the court lacked jurisdiction to enter judgment due to Plaintiff's failure to have served on Ms. Hughes the required annual recertification reminder notices; and second, that Ms. Hughes was current on her rental obligation because Plaintiff had set her rent at $0.00. (3T4:15-25; 3T5:1-9).

Ms. Hughes further noted that Plaintiff, seeking to evict her for failure to recertify, had failed to attach to its complaint copies of the required

recertification reminder notices and the termination of subsidy notice. (3T5:12-20); (3T6:1-2).

What followed next was an effort by Plaintiff's counsel to mislead the court as to the very nature of the case:

> Mr. Mesarick: "This isn't a failure to recertify case or a breach of lease case. It's a nonpayment...it's always been a nonpayment of rent case." (3T6:17-18, 20).
>
> Mr. Mesarick: "...They did not terminate her tenancy for failure to recertify. They are trying to evict her for not paying her rent. That's what this case is about. There's no notice to cease, no notice to quit, no requirement we attach any notices to the complaint..." (3T16:16-22).

The court thereafter advised that the only issue it would be entertaining would be whether it was proper for the landlord to terminate the lease and proceed by way of a nonpayment of rent based upon the requisite notices sent. (3T19:16-20). The court then took testimony on whether the recertification reminder notices had been served. (3T28:8-19).

On direct, Ms. Hughes testified to having completed her recertification on June 27, 2024, and being recertified by Plaintiff for the 2024-25 annual lease term. (3T30:15-16; 3T31:8).

Thereafter, the letter dated October 29, 2024, and signed by Plaintiff's property manager, Deborah Straut, wherein she indicated that Ms. Hughes had

completed recertification and that her rent was adjusted to $0.00, effective September 2024, was admitted into evidence. (3T32:12-25; 3T33:1-6).

On cross, asked whether she had received any notices prior to her recertification, Ms. Hughes testified that she did receive a notice stating that it was time to complete her recertification, which she then timely completed on June 27, 2024. (3T35:13-17; 3T36:20-24).

On direct, Plaintiff's witness, Ms. Cintron, testified that Ms. Hughes' recertification date was in August, and that, if Plaintiff did not have all the required paperwork by July 31st, then Plaintiff must terminate the subsidy accordingly and the tenant becomes responsible for market rent. (3T40:5-8).

The court then permitted Plaintiff to read the contents of a letter dated August 21, 2024 into the record. (3T42:18-19).

> "Dear Nadia Hughes, this is to notify you that on the basis of your recent review of your income and family composition, your rent has been adjusted to 1,759. The new rent is effective beginning August 1, 2024. This notification amends Paragraph 3 of your lease agreement, which sets forth the amount of rent you pay each month. Please visit the office within seven days of receiving this notice to sign and receive a copy of the HUD 50059." (3T43:7-21).

On cross, Plaintiff's witness, Ms. Cintron, who's employment with Plaintiff began on June 21, 2024[4], then proceeded to address the service on the defendant of each of the recertification reminder notices starting with the first in March. (3T45:20-25; 3T46:1-2).Thereafter, her testimony continued covering the service on Ms. Hughes of the second reminder notice on May 1, 2024 and the third reminder notice on June 1, 2024. (3T46:7-16; 3T47:1-12).

When Defendant's attorney questioned Ms. Cintron as to whether the third recertification reminder notice had been hand-delivered, Plaintiff's attorney quickly interjected:

> Mr. Mesarick: She testified that she did hand-deliver it to the unit. She said she hand-delivered each of these notices to the unit. (3T47:20-22).

Following the conclusion of oral argument, the court ruled that, based on the testimony provided, it was finding that the notices had been served, and hence, it was denying Defendant's application to set aside the judgment:

> "Based on the testimony provided by the witnesses, I find that the notices were sent....So for that reason, the motion to vacate the default judgment is denied." (3T51:3-4, 19-20).

[4] On April 15, 2025, in Aspen Riverpark Apartments v. Samantha Brydie, docket no. ESX-LT-3920-25, property manager Christina Cintron's sworn testimony was that her employment as a property manager began on June 21, 2024 and that, it was Aspen Riverpark's customary practice to deliver the recertification reminder notices directly to tenants' doors. Da94, Da101.

Following its ruling, the court, at Ms. Hughes request, granted a thirty (30) day stay of lockout to allow time to file an appeal. (3T55:10-13).

On April 30, 2025, Ms. Hughes filed her notice of appeal. Da132.

On June 23, 2025, the court, hearing that misrepresentations had occurred, granted Ms. Hughes a stay pending appeal.

LEGAL ARGUMENT

PLAINTIFF'S WITNESS, WHOSE EMPLOYMENT BEGAN JUNE 21, 2024, PURPOSEFULLY MISLED THE COURT AS TO HER HAVING HAD A ROLE IN THE DELIVERY OF NOTICES TO THE DEFENDANT ON MARCH 1, 2024, MAY 1, 2024, AND JUNE 1, 2024. (3T45:20-25; 3T46:1-2).

At the commencement of the April 28, 2025, hearing, Defendant asked that the judgment be vacated on the basis that the court lacked jurisdiction given Plaintiff's failure to have attached to its complaint copies of the recertification reminder notices. (3T5:12-20); (3T6:1-2).

What followed next can best be characterized as an unsuccessful effort on Plaintiff's part to mislead the court as to the very nature of the case:

> Mr. Mesarick: "This isn't a failure to recertify case or a breach of lease case. It's a nonpayment...it's always been a nonpayment of rent case." (3T6:17-18, 20).
>
> Mr. Mesarick: "...They did not terminate her tenancy for failure to recertify. They are trying to evict her for not paying her rent. That's what this case is about. There's no notice to cease, no notice to quit, no requirement we attach any notices to the complaint..." (3T16:16-22).

The court thereafter informed that the only issue it would be entertaining would be whether it was proper for the landlord to terminate the lease and proceed by way of a nonpayment of rent based upon the requisite notices sent.[5]

[5] Having argued that no notices were required, Mr. Mesarick later produces notices that he just happened to have "a pile right here." (3T16:24-25); (3T17:1-3).

(3T19:16-20). The court then took testimony as to whether the HUD mandated recertification reminder notices had been served. (3T28:6-19).

On direct, Ms. Hughes testified to not having received any of the recertification reminder notices:

> Q: At any point in time, did your landlord send you any reminder notices?
> A: No.
> ...
> Q: Did you receive a reminder notice in April?
> A: No.
> Q: Did you receive a reminder notice in May?
> A: No.
> Q: Did you receive a reminder notice in June?
> A: No.
> (3T30:18-20, 25); (3T31:1-5).

On cross-examination, Ms. Hughes remained firm that she had not received the recertification reminder notices:

> Q: Ms. Hughes, you said that you never received any notices prior to your recertification?
> A: No.
> Q: Is that you didn't receive it or, no, you did receive it?
> A: No, I didn't receive it.
> (3T34:21-25); (3T35:1).

With Plaintiff's witness, Christina Cintron, next taking the stand, and following direct, Defendant's attorney began questioning her as to the service of the recertification reminder notices:

> Q: Was there reminder notices that were sent to Ms. Hughes?

> A: Yes.
> Q: Okay. There was one that was on April 1, 2024?
> A: First, second, third notice reminders.
> (3T45:11-16).

Thereafter, continuing his cross of Ms. Cintron, Defendant's counsel inquires as to how she, herself, had served each of the reminder notices:

> Q: Okay. So **you** sent the first reminder notice on what day?
> A: So she gets the initial one from the year before when she did her lease, which she signed it right here.
> ...
> Q: The second reminder was on what day? What's the date?
> A: 5/1/2024.
> Q: Okay. And how did **you** send that notice?
> A: That gets sent to their door.
> Q: And when did **you** send the third reminder notice?
> A: Dated 6/1.
> (Emphasis added).
> (3T45:20-23); (3T46:7-11); (3T47:10-12).

When Defendant's attorney next asks Ms. Cintron whether the third recertification reminder notice had been hand-delivered, Plaintiff's attorney quickly interjects:

> Mr. Mesarick: She testified that she did hand-deliver it to the unit. She said she hand-delivered each of these notices to the unit. (3T47:20-22).

Mr. Mesarick's assertion that Ms. Cintron had hand-delivered the required notices was completely false. With Ms. Cintron's employment with the plaintiff having begun on June 21, 2024, Mr. Mesarick's affirmation to the court that Ms.

Cintron had hand-delivered the required recertification reminder notices to Ms. Hughes, was a blatant misrepresentation.[6] Was not Attorney Mesarick under an obligation as required by the Rules of Professional Conduct to have informed the court, not only that Ms. Cintron could not have personally served those notices, but also that she lacked personal knowledge as to whether service of the notices, which predated her employment, had even taken place at all? N.J.Ct. R.RPC 3.3 (2025); See also N.J.Ct. R.RPC 3.4 (2025).

Following the close of testimony, the court issued its decision denying Ms. Hughes' motion to vacate the judgment:

> "Based on the testimony provided by the witnesses, I find that the notices were sent....So for that reason, the motion to vacate the default judgment is denied." (3T51:3-4, 19-20).

With that ruling by the court, Plaintiff's effort to mislead the tribunal into believing from Ms. Cintron's testimony that she had personal knowledge as to the service of the notices had succeeded.

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[6] Christina Cintron, in Aspen River Park Apartments v. Hassan Warren, Docket No. ESX-LT-797-25 filed a certification with the court, wherein she certified to having personal knowledge to events that took place in 2023. Da34.

CONCLUSION

Defendant submits that, given that the court's April 28, 2025, ruling denying her application to dismiss was the product of the fraud perpetrated on the court by Plaintiff, the underlying judgment must be vacated.

Dated: August 1, 2025

Respectfully Submitted

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SUPERIOR COURT OF NEW JERSEY APPELLATE DIVISION
Docket No. A-002671-24

ASPEN RIVERPARK APARTMENTS	:	ON APPEAL FROM
	:	SUPERIOR COURT OF NEW JERSEY
PLAINTIFF/RESPONDENT,	:	LAW DIVISION: ESSEX COUNTY
	:	SPECIAL CIVIL PART
v.	:	LANDLORD/TENANT
	:	DOCKET NO. LT-000790-25
NADIA HUGHES,	:	Sat Below
	:	Hon. Annette Scoca, JSC
Defendant/Appellant.	:	Hon. Jennifer Critchley, JSC

PLAINTIFF/RESPONDENT'S BRIEF

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TABLE OF CONTENTS

TABLE OF CITATIONS

Cases

PRELIMINARY STATEMENT

The underlying summary dispossess proceeding was initiated by Plaintiff/Respondent, Aspen River Apartments (herein, "Respondent") against Defendant/Appellant, Nadia Hughes (herein, "Appellant") on the basis of non-payment of rent.

On April 28, 2025, the trial court denied Appellant's Order to Show Cause application seeking to vacate the default judgment of possession entered in favor of Respondent after Appellant failed to appear for the trial scheduled for February 25, 2025. At this time, Respondent seeks to have the trial court's decision affirmed. Respondent submits that the trial court's decision was proper as all factual findings at trial were firmly supported by the evidence on the record and all legal findings were consistent with applicable law.

In an effort to avoid duplication and in compliance with New Jersey Court Rule 2:6-1(a)(2), Respondent relies partly upon the exhibits provided in Appellant's Appendix to support its position.

PROCEDURAL HISTORY

On January 14, 2025, Respondent filed a Complaint against Appellant in the Landlord-Tenant Division of the Special Civil Part, docketed LT-00790-25, seeking judgment of possession for non-payment of rent. Da1. The matter was scheduled for trial on February 25, 2025. On said date, Appellant failed to appear, and a judgment for possession by default was entered. Da29.

On March 28, 2025, Appellant filed a Certification for Relief seeking to stop the lockout. An Order to Show Cause hearing was held on April 16, 2025[1], resulting in the Appellant being granted an Order for Orderly Removal, staying the lockout to April 23, 2025. Da32.

Appellant filed another application for an Order to Show Cause on April 25, 2025, seeking to vacate the default judgment and dismiss Respondent's complaint. A hearing was held on April 21, 2025[2], and the matter was

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[1] For clarification, the transcript of the hearing on April 16, 2025, has number designation 1T.

[2] For clarification, the transcript of the hearing on April 21, 2025, has number designation 2T.

adjourned to April 28, 2025[3], where a full hearing proceeded. Following the hearing, Judge Critchley denied Appellant's Motion/Order to Show Cause. Da33.

On or about April 30, 2025, Applicant filed this action with the Appellate Division. Da57. On or about May 23, 2025, Appellant requested the Court stay the execution of the Warrant of Removal and adjourn their Order to Show Cause request pending the outcome of this appeal. Da37. This request was granted during a hearing on June 23, 2025.

[3] For clarification, the transcript of the hearing on April 28, 2025, has number designation 3T.

STATEMENT OF FACTS

Respondent is Aspen Riverpark Apartments, the owner of the property located at 3 Oxford Street, Newark, New Jersey 07105 (herein, the "Premises"). Da1. On August 4, 2025, Appellant executed a written lease agreement (herein, the "Lease") with Respondent to rent the Premises. Da63. Appellant initially received a rent subsidy from HUD. Da63.

At all times relevant, Appellant was responsible, per Section 15 of the Lease, to annually recertify her income, expenses, and household composition. Da67. On or around July 31, 2024, Appellant's rent reverted to market rent after she lost her subsidy due to failing to recertify income, expenses, and household composition. 3T 21-25.

On January 14, 2025, Respondent filed the underlying eviction complaint seeking possession of the Premises for Appellant's failure to pay rent from October 2024 through January 2025, totaling $7,062. Da1.

SCOPE OF REVIEW

The scope of review of a judgment entered in a non-jury case is limited. The New Jersey standard is set out in the leading case of Rova Farms Resort, Inc. v. Investors Insurance Company, 65 N.J. 474 (1974). In that case, New Jersey Supreme Court noted that:

> Our courts have held that [non-jury] findings… should not be disturbed unless… 'they are so wholly unsupportable as the result in a denial of justice,' and that the Appellate Court should exercise its original fact finding jurisdiction sparingly and in none but a clear case where there is no doubt about the matter.
>
> Id. at 483-484.

The fact findings and legal conclusions of a trial judge should not be disregarded unless the court is clearly convinced that they are so manifestly unsupported by or inconsistent with the competent, relevant, and reasonable credible evidence as to offend the interests of justice. Id. at 484.

In the review of non-jury trials by the Appellate Division, the court has said, "'[w]e do not weigh the evidence, assess the credibility of witnesses, or make

conclusions about the evidence.'" Mountain Hill, L.L.C. v. Twp. of Middletown, 399 N.J. Super. 486, 498 (App. Div. 2008) (alteration in original) (quoting State v. Barone, 147 N.J. 599, 615 (1997)), certif. denied, 199 N.J. 129 (2009). If findings result from credibility determinations, the appellate court will defer to the trial court. See Jastram v. Kruse, 197 N.J. 216, 230 (2008) (stating appellate courts "must afford 'due deference' to the trial court's 'feel of the case,' with regard to the assessment of intangibles, such as witness credibility.").

As will be explained, there is no basis for disturbing the trial court's decision, whose factual findings at the proof hearing were firmly supported by the evidence on the record and whose legal findings were consistent with applicable law.

LEGAL ARGUMENT

I. THE TRIAL COURT DID NOT ERR IN DENYING APPELLANT'S APPLICATION SEEKING TO VACATE DEFAULT JUDGMENT AND DISMISS RESPONDENT'S COMPLAINT. (Da33).

In this appeal, Appellant argues that the trial court erred by denying Appellant's Order to Show Cause seeking to vacate the default judgment and dismiss the eviction complaint. Appellant claims that Respondent's witness and attorney intentionally misled the court. However, at no point did Respondent's witness or their attorney purposely mislead the court.

Appellant first points to a statement by Respondent's attorney. 3T6-17 to 23. This statement was made in response to Appellant's position that the court lacked jurisdiction because Respondent failed to attach a Notice to Cease and Notice to Quit to the Complaint:

> MR. KERSHAW: "…that's not how it works when they're filing a complaint for failure to recertify. There's four notices that must be attached, and there has to be a termination notice, and since -- it has to be a notice to cease and a notice to quit also to terminate the tenancy. So there's multiple notices that need…" 3T5-12 to 20.

This statement by Appellant's attorney is incorrect as it applies to this case. While Appellant's defense raises issues regarding the recertification, and he is correct that a complaint seeking removal of a tenant for failing to recertify would require a Notice to Cease and Quit, there can be no dispute that Respondent's complaint alleges non-payment of rent and not breach of lease for failure to recertify. Da1. The statement by Appellant's attorney is a projection, as he is attempting to do the very thing he accuses Respondent's attorney of doing; improperly characterizing the nature of the case as something it is not, in this case, a holdover eviction based on breach of lease for failure to recertify. There is no mischaracterization of the nature of the case by Respondent's attorney, simply a correction to Appellant's attempt to mislead the court.

Appellant next points to an exchange between Respondent's witness and Appellant's attorney on cross-examination. 3T45-11 to 3T47-17. Appellant contends that Respondent's witness misled the court by testifying that

she personally delivered recertification reminder notices to Appellant even though she was not employed by Respondent at the time the notices were served.

There are several problems with Appellant's argument. First, Respondent's witness never testified that she personally delivered any notices. Appellant specifically quotes the following exchange:

> Q: Okay. So you sent the first reminder notice on what day?
> A: So she gets the initial one from the year before when she did her lease, which she signed it right here.
> 3T45-20 to 23.
>
> Q: The second reminder was on what day? What's the date?
> A: 5/1/2024.
> Q: Okay. And how did you send that notice?
> A: That gets sent to their door.
> 3T46-7 to 11.
>
> Q: And when did you send the third reminder notice?
> A: Dated 6/1.
> 3T47-10 to 12.

At no point in this exchange did Respondent's witness make any claim she personally mailed or delivered any notices to Appellant. She chose her words very carefully. Appellant's failure to fully elicit testimony as to

whoever served these notices does not equate to the witness intentionally misleading the court; she answered the questions asked of her directly and precisely. This would apply to the issue of Respondent's witness's date of employment as well. This is not a fact that was established either in the direct or cross-examination. Appellant had every opportunity to elicit this testimony during their cross but failed to do so.

Second, even if the above exchange was an attempt to intentionally mislead the court, the question of whether the reminder notices were served on Appellant could have easily been decided in the same manner based on an earlier testimony from the Appellant.

While Appellant has repeatedly maintained she did not receive reminder notices to recertify, 3T30-18 to 3T31-5; 3T34-21 to 22, the following exchange, Respondent's cross-examination of Appellant, appears to contradict this:

> THE DEFENDANT: I said there was no reason for me to receive any notices there because I came down in an orderly fashion to renew my lease.

> MR. MESARICK: Q Who told you to come down? A Ms. -- either Ms. Noellia or Ms. Deborah brought a note that stated that I had to renew another lease. They would send out a notice stating that we had to call in -
>
> ...
>
> THE COURT: When?
> THE DEFENDANT: It had to be before - when our lease is new -- renewed.
> THE COURT: So you did get a notice then?
> THE DEFENDANT: I did that. But I came down.
> THE COURT: But you did get a notice then?
> THE DEFENDANT: Yeah, stating that, you know - everybody gets a notice as far as when it's time to get renewed. She told me -- I went down there to ask her what was this paper all about. She said I failed to show my proof of my income, so I'm stuck with market rent. This is why we're here.
>
> ...
>
> THE COURT: What did you get notice of before August 1st?
> THE DEFENDANT: I received a notice - all the tenants receive a notice right before it's time to -- when your renewal is due.
> 3T35-9 to 17; 3T35-20 to 3T36-6; 3T37-22 to 3T38-1.

Based on this exchange, the lower court clearly could have used this testimony in forming her decision. Judge

Critchley, in fact, expressly stated so immediately after:

> THE COURT: I think it's established she got the notices -- the reminder notices. It's established.
> …
>
> THE COURT: That is my finding based upon the testimony provided. The only issue left is the HUD notice. Did she get that notice, the HUD notice?
> 3T38-23 to 3T39-3.

As the foregoing reveals, the trial court's determination of the issue of the reminder notices was decided based on Appellant's own testimony which was prior to Respondent's witness testimony. Even if she intentionally misled the court as to the service of the reminder notices, Judge Critchley had already decided the issue.

Lastly, as noted above, the scope of review here is limited. The Appellant Division does "… not weigh the evidence, assess the credibility of witnesses, or make conclusions about the evidence." Mountain Hill, L.L.C. v. Twp. of Middletown, 399 N.J. Super. 486, 498 (App. Div. 2008) (alteration in original) (quoting State v.

Barone, 147 N.J. 599, 615 (1997)), certif. denied, 199 N.J. 129 (2009). Here, this is exactly what the Appellant is asking this Court to do. The lower court was in the best position to assess the credibility of the witness. Its decision should be undisturbed. Further, given that the lower court explicitly stated it found that the Appellant received the reminder notices based on Appellant's own testimony and not Respondent's witnesses, Appellant has failed to demonstrate how the trial court's decision is unsupported by, or inconsistent with, the evidence. Therefore, this Court should grant the trial court deference in its findings of fact and conclusions of law.

CONCLUSION

The trial court did not err in denying Appellant's application seeking to vacate the default judgment and dismiss the Respondent's Complaint.

Respondent submits that the trial court's decision was proper as all factual findings at trial were firmly supported by the evidence on the record and all legal findings were consistent with applicable law.

For the foregoing reasons, the trial court's decision must be affirmed.

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Attorneys for Plaintiff/Respondent

Dated: 9/4/2025

By: s/ Nicholas Mesarick
NICHOLAS MESARICK

AppBrief(Aspen_Huges)NM
Client No. 8972.1

Superior Court of New Jersey

ASPEN RIVERPARK APTS, Plaintiff-Respondent, v. NADIA HUGHES, Defendant-Appellant.	APPELLATE DIVISION DOCKET NO: A-002671-24-T2 Civil Action On Appeal from a Final Judgment of the New Jersey Superior Court, Special Civil Part, Essex County, LT- 000790-25 Sat Below: Hon. Annette Scoca, J.S.C. Hon. Jennifer Critchley. J.S.C.

REPLY BRIEF OF DEFENDANT/APPELLANT NADIA HUGHES

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On the Brief

TABLE OF CONTENTS

PAGES

TABLE OF AUTHORITIES

CASE LAW **PAGES**

RULES OF PROFESSIONAL CONDUCT

PROCEDURAL HISTORY AND STATEMENT OF FACTS

Defendant relies on the Procedural History and Statement of Facts set forth in her original brief.

SCOPE OF REVIEW

While appellate courts generally defer to a trial court's factual findings, such deference does not extend to judgments procured through fraud, misrepresentation, or deception on a material issue. A court's equitable power to vacate or reverse such judgments is well established, particularly where the integrity of the proceeding has been compromised. The Appellate Division may intervene where there is clear evidence that the judgment was not the product of a fair and truthful record, but rather one tainted by false testimony or misleading representations that affected the outcome. Triffin v. Automatic Data Processing, Inc., 411 N.J. Super. 292 (App. Div. 2010).

In the case here under review, the trial judge, Jennifer Critchley, granted defendant a stay of judgment pending appeal on the basis of finding that Plaintiff at trial had engaged in misrepresentations on issues material to the court's decision.

LEGAL ARGUMENT

I. PLAINTIFF AGAIN SEEKS TO DECEIVE THE COURT

At the outset of the April 28, 2025 hearing before the Honorable Jennifer Critchley, Plaintiff's counsel, in an effort to wrongfully deny Ms. Hughes her right to judicial review of his client's termination of her federal rent subsidy, sought to mislead the court as to the very nature of the case:

> Mr. Mesarick: "This isn't a failure to recertify case or a breach of lease case. It's a nonpayment...it's always been a nonpayment of rent case." (3T6:17-18, 20).
>
> Mr. Mesarick: "...They did not terminate her tenancy for failure to recertify. They are trying to evict her for not paying her rent. That's what this case is about. There's no notice to cease, no notice to quit, no requirement we attach any notices to the complaint..." (3T16:16-22).

Rejecting Mr. Mesarick's representations that the case involved a simple nonpayment, the court thereafter informed that the issue it would be entertaining would be whether it was proper for the landlord to terminate the lease and proceed by way of a nonpayment of rent based upon the requisite notices sent. (3T19:16-20). When his attempt at deception proved unsuccessful, Attorney Mesarick suddenly and conveniently found within his possession a pile of notices. (3T16:24-25; 3T17:1-3).

In his brief to this Court, and without mentioning that the court below rejected his assertions, Plaintiff's counsel returns to his strategy of mischaracterizing the action here on appeal as a simple nonpayment. This perhaps in the hope that, while his deception did not work with the trial judge, it might succeed with this Court.

Doubling down, Plaintiff's counsel also proceeds to accuse Defendant of attempting to mislead this Court, "by improperly characterizing the nature of the case as something it is not..." Pb8.

Defendant submits that the aforestated game-like actions by Plaintiff's attorney evidence not only a wholesale disregard for an attorney's duty of candor as set forth in the Rules of Professional Conduct (RPC), but also for the measure of respect that is owed to this Court.

II. PLAINTIFF ACCUSES THE TRIAL COURT OF PREJUDGING THE CASE

In its brief to the Court, Plaintiff, in an effort to downplay the significance of its deliberate misrepresentations, offers that prior to the time they were made, the trial court had already decided the issue:

> "As the foregoing reveals, the trial court's determination of the issue of the reminder notices was decided based on Appellant's own testimony which was prior to Respondent's witness testimony. Even if she intentionally misled the court as to the service of the reminder notices, Judge Critchley had already decided the issue." Pb12.

So according to Plaintiff, the court, in advance of hearing from the plaintiff on the material issue of whether the HUD required notices had been served had already pre judged the case, and in his client's favor. It appears from Plaintiff's claim that counsel sees nothing wrong with impugning the integrity of the trial court in order to protect the judgment he secured through misconduct. Apparently, Plaintiff's counsel also does not see a problem in asking that this Court hold harmless his misconduct.

III. THE ACTIONS OF PLAINTIFF'S ATTORNEY WARRANTS AN ETHICS REFERRAL

What comes across from the record in this case is that Attorney Nicholas Mesarick has little or no regard for the requirement of honesty embodied in our Rules of Professional Conduct, and particularly, RPC 3.3 requiring candor toward the tribunal. In re Forrest, 158 N.J. 428, 437 (1999) (Quoting In re Johnson, 102 N.J. 504, 510 (1986), our Supreme Court declared that a misrepresentation to a court, "is a most serious breach of ethics because it affects directly the administration of justice."

Defendant submits that the harmful impact of what may be Attorney Mesarick's regular course of conduct is very serios in that Attorney Mesarick appears daily in tenancy court in Essex County. Representing large, federally subsidized landlords, such as Aspen Riverpark Apartments, he answers the calendar call on multiple cases each day. As such, the impact of his actions on low-income tenants, particularly those without legal representation, and on the members of the judiciary before which he appears, can be very significant. For low-income tenants, dishonest practices on the part of their landlord's attorney, particularly in proceedings where there is no discovery, can result in their loss of permanent shelter where eviction was not warranted. For members of the judiciary, the lack of candor on the Attorney's part wastes judicial time, frustrates the fair adjudication of cases and leads to

miscarriages of justice. Attorney misconduct also contributes to a loss of confidence in the judicial process and in the legal profession, by members of the public.

In the case at bar, it was not discovered until post judgment, that the witness Mr. Mesarick had put on the stand and who he had no doubt coached to carefully choose her words, was not even competent to testify as to the service of the notices. But for the post judgment discovery by Defendant's counsel, that witness Cintron's employment with Plaintiff had not begun at the time of her alleged service of notices, Ms. Hughes and her children would in all probability now be homeless. The question remains, how many other innocent tenants have been so harmed or stand to be harmed if this attorney's pattern of misconduct is left unchecked?

In short, failure to strictly enforce the duty of candor owed to the court by an attorney can only lead to a culture where some attorneys believe that lying to the court is not only acceptable, but also, good lawyering. Unfortunately, that is already taking place.

CONCLUSION

For the reasons set forth in Defendant's briefs and, as supported by the record, the judgment should be vacated, and the underlying complaint dismissed with prejudice.

Dated: September 19, 2025

Respectfully Submitted,

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