

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT**

**Matter of Siegel v. New York State Div. of Hous. & Community
Renewal**

2019 NY Slip Op 4326 (App. Div. 2019) · No. 9517 · Decided June 4, 2019

SUMMARY

The Appellate Division, First Department affirmed an order annulling a New York State Division of Housing and Community Renewal determination assessing rent-overcharge damages against a petitioner who had not received proper notice of the complaint. The court remanded the matter to DHCR for de novo review with adequate notice and an opportunity for the petitioner to respond.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Acosta, P.J.; Richter, J.; Kapnick, J.; Kahn, J.; Kern, J.
JURISDICTION	New York
DECIDED	June 4, 2019
DOCKET	9517
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed from an order and judgment of Supreme Court, New York County, granting a CPLR article 78 petition in part, annulling a DHCR rent-overcharge determination, remanding the matter to DHCR for de novo review, and directing that petitioner receive proper notice and an opportunity to respond.
PRECEDENTIAL VALUE	published appellate opinion
PARTIES	Paul Siegel v. New York State Division of Housing and Community Renewal, Elizabeth Siracuse

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether DHCR could assess rent-overcharge damages against petitioner without proper notice of the complaint and an opportunity to respond.
2. Whether the proceeding should be dismissed or instead remanded to DHCR for de novo review after proper service.

HOLDINGS

1. DHCR improperly assessed damages against petitioner because he had not received proper notice of the rent-overcharge complaint; petitioner was entitled to adequate notice and an opportunity to be heard.
2. The rent-overcharge proceeding should not be dismissed; it should be remanded to DHCR for de novo review upon proper service of notice.

KEY QUOTATIONS

“Under these circumstances, the court properly declined to dismiss the DHCR proceeding, and instead remanded the rent overcharge matter to DHCR for de novo review and ordered DHCR to provide petitioner with adequate notice and an opportunity to be heard”

FACTUAL BACKGROUND

Elizabeth Siracuse subleased an apartment from petitioner Paul Siegel and filed a rent-overcharge complaint with DHCR on March 20, 2011. DHCR issued a November 4, 2013 determination assessing damages against Siegel, but Siegel had not received proper notice of the complaint. The agency determination included treble damages and interest.

PROCEDURAL HISTORY

DHCR determined that Elizabeth Siracuse had overpaid rent and directed petitioner to refund or credit the overcharge, including treble damages and interest. Supreme Court annulled the determination because petitioner had not received proper notice, remanded the matter to DHCR for de novo review, and ordered that petitioner be given an opportunity to answer. The Appellate Division unanimously affirmed without costs.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

DHCR must conduct a de novo review of the rent-overcharge matter after properly serving petitioner with notice of the complaint and allowing petitioner 60 days after service to answer and otherwise respond.

CASES CITED

- Matter of Weinreb Mgt. v. New York State Div. of Hous. & Community Renewal, 297 A.D.2d 221 (1st Dep't 2002)

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