

**DISTRICT COURT OF APPEAL OF FLORIDA
FOURTH DISTRICT**

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CASE NO.: 4D20-2515

L.T. CASE NO.: CACE 18-001044 and COSO 17-005059

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ALEXEI RASIN (RASIN),

Petitioner,

v.

2080 S. OCEAN DRIVE CONDOMINIUM ASSOCIATION (2080)

Respondent.

**NOTICE TO INVOKE DISCRETIONARY JURISDICTION OF THE
SUPREME COURT OF FLORIDA**

ALEXEI RASIN
1025 E HALLANDALE BEACH
BLVD. STE 15-803
HALLANDALE BEACH, FL 33009
(305) 747-3243
RASINMD@GMAIL.COM

RECEIVED, 03/17/2021 09:01:27 AM, Clerk, Supreme Court
RECEIVED, 03/16/2021 06:07:27 PM, Clerk, Fourth District Court of Appeal

COMES NOW the Appellant/Petitioner, Alexei Rasin, and files this Notice to invoke Discretionary Jurisdiction of the Supreme Court of Florida of the Order of this Court rendered March 5, 2021, pursuant to Art, V, § 3(b)(4)(5), Fla. Const., and Fla. R. App. P. 9.030(a)(2)(A)(v) and Fla. R. App. P. 9.120. The nature of the Order is a final order denying rehearing and written opinion of the Order dated October 22, 2020.

Petitioner strongly believes that raised issues are of **EXTREME PUBLIC IMPORTANCE**, especially in light of the current humanitarian crisis and a growing number of self-representing litigants.

This case is qualified for the review by the Supreme Court under Article V, section 3(b)(4)(5) of the Florida Constitution on the ground that the following question of great public importance and/or to have a great effect on the proper administration of justice throughout the state.

The nature of the Order is a final order affirming Lower courts decision of residential eviction while having no jurisdiction and not complying with the statutory requirements and rules of the proceedings.

It is clearly stated in the majority of the cases throughout the State of Florida and the United States of America, that Statutory requirements must be strictly adhered to and procedural rules must be strictly construed. The questions requiring Supreme Court clarifications are:

I. Jurisdiction of the county court Fl. Statute 34.01 and Rule 7.100(d).

Where the amount in dispute or to be deposited exceeds the jurisdictional limit of the county court (\$15,000.00 in 2016), the case should be transferred to the circuit court.

Where a party files a counterclaim for damages in excess of the jurisdictional amount, or Rule 7.100(d), Florida Small Claims Rules, the claims of all parties, including eviction claim, shall be resolved by the circuit court.

II. Rent determination Fl. Statute 83.60 (2).

If the tenant files a motion for determination of rent to be paid into the registry, the court should conduct a hearing to determine the amount of rent to be posted. The hearing is limited in scope-only to determine the amount of rent to be posted.

III. Material noncompliance Fl. Statute 83.51(1).

The defense of material noncompliance with s. 83.51(1) may be raised by the tenant if 7 days have elapsed after the delivery of written notice by the tenant to the landlord, specifying the noncompliance and indicating the intention of the tenant not to pay rent by reason thereof, is a complete defense in the action of possession based on non-payment of rent.

Due to an abundance of decisions and arguments based on an abridged or “**Cherry-picked excerpts**” from Florida’s Statute 83.60(2), and abuse of so-called “standing case” (reference to Stanley v. Quest, Int’l Inv., Inc.), Petitioner respectfully requests this court’s detailed written opinion and/or clarification of Florida’s Statute 83.60(2) due to **EXTREME PUBLIC IMPORTANCE!**

Wherefore, the Petitioner respectfully requests this court to review and issue a clear opinion on the above issues. Petitioner strongly believes it is in a **Greater Good of Public importance.**

I HEREBY CERTIFY that the size and style of type used are 14-point Arial, in compliance with Fl. R. App. P. 9.210(a)(2).

CERTIFICATE OF SERVICE

I certify that a copy hereof has been electronically filed and served by email and using the Florida Courts E-Filing Portal on Paul Kim paul@condo-laws.com counsel of record for the Respondent.

A handwritten signature in black ink that reads "A. Rasin". The signature is written in a cursive, flowing style.

Respectfully submitted, March 16, 2021

Alexei Rasin
1025 E Hallandale Beach BLVD. STE 15-803
Hallandale Beach, FL 33009
PHONE 305-747-3243

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

March 05, 2021

CASE NO.: 4D20-2515

L.T. No.: CACE18-001044 AP,
COSO17-005059

ALEXEI RASIN

v. 2080 OCEAN DRIVE CONDOMINIUM
ASSOCIATION, INC.

Appellant / Petitioner(s)

Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that appellant's February 10, 2021 motion for rehearing and written opinion is denied.

Served:

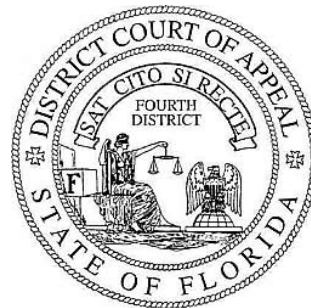
cc: Paul Kim

Alexei Rasin

kr



LONN WEISSBLUM, Clerk
Fourth District Court of Appeal



**DISTRICT COURT OF APPEAL OF FLORIDA
FOURTH DISTRICT**

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CASE NO.: 4D20-2515
L.T. CASE NO.: CACE 18-001044 and COSO 17-005059

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ALEXEI RASIN (RASIN),

Petitioner,

v.

2080 S. OCEAN DRIVE CONDOMINIUM ASSOCIATION (2080)

Respondent.

PETITION FOR WRIT OF CERTIORARI

ALEXEI RASIN
1025 E HALLANDALE BEACH
BLVD. STE 15-803
HALLANDALE BEACH, FL
33009
(305) 747-3243
RASINMD@GMAIL.COM

Petitioner respectfully requests oral arguments Fla. R. App. P. 9.320.

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Appendices and Exhibits filed in a separate document as requested by the Clerk

Petitioner Alexei Rasin, pursuant to Fla. R. App. 9.030(b)(2)(A) and Fla. R. App. P. 9.100, respectfully files this petition seeking issuance of a writ of certiorari on the grounds set forth below.

MEMORANDUM OF LAW

THE TRIAL COURT ERRED in entering a Final Judgement/ Amended Final Judgement for Possession by Default entered on December 18th, 2017 in favor of Appellee, 2080 s. Ocean drive condominium association and the Appellate division of 17th Judicial circuit ERRED in affirming that decision without written opinions or requested oral arguments.

I. Jurisdiction of the county court Fl. Statute 34.01 and Rule 7.100(d).

Where the amount in dispute or to be deposited exceeds the jurisdictional limit of the county court (\$15,000.00 in 2016), the case should be transferred to the circuit court¹.

Where party files a counterclaim for damages in excess of the jurisdictional amount, or Rule 7.100(d), Florida Small Claims Rules, the claims of all parties, including eviction claim, shall be resolved by the circuit court².

II. Rent determination Fl. Statute is 83.60 (2).

If the tenant files a motion for determination of rent to be paid into the registry, the court should conduct a hearing to determine the amount of rent to be

¹ Good To Go Food Store, Inc. v. LRM Realty, LLP, 93 So.3d 362 (Fla. 2d DCA 2012)

² Herrell v. Seyfarth, Shaw, Fairweather & Geraldson, 491 So. 2d 1173 (Fla. 1st DCA 1986), CKN Airways, Inc. v. Flagler County, 441 So. 2d 1103 (Fla. 5th DCA 1983)

posted. The hearing is limited in scope-only to determine the amount of rent to be posted³.

III. Material noncompliance Fl. Statute 83.51(1).

The defense of material noncompliance with s. 83.51(1) may be raised by the tenant if 7 days have elapsed after the delivery of written notice by the tenant to the landlord, specifying the noncompliance and indicating the intention of the tenant not to pay rent by reason thereof, is a complete defense in the action of possession based on non-payment of rent.

Statement of the Case and Facts

This action has arisen from a complaint to a landlord (Respondent) and landlords representative First Service Residential of Florida regarding unlawful practices and Gross Negligence by the Landlord (Respondent) and management First Service Residential of Florida, retaliatory actions by the landlord and management and subsequent eviction proceeding at the County Court.

1. Petitioner (Rasin) has entered into a contract with Respondent (**2080**) to rent a unit 1510 at 2080 s. Ocean drive Hallandale beach FL (unfurnished) for \$2100 a month starting June 30th, 2016. **Lease provisions included an electrical bill paid by the Respondent (2080).**
2. A check for \$2100 was deposited with a real estate broker (Century 21 agency) and a check for the last month's rent and security deposit was

³ Olszewska v. Ferro, 590 So. 2d 11 (Fla. 3d DCA 1991)

deposited with the manager's office of 2080 condominium association (at that time Nadia was an assistant manager Milagros manager).

3. Rasin was away during the July 4th Holidays and upon return on or about July 8th, was notified that the association's system that deposits checks made a mistake while trying to deposit \$4500 (instead of \$4200). The deposit was made not from the 2080 association, but from an unknown source and was denied by Rasin's bank.
4. On July 11th at approximately 10 AM electricity in Rasin's apartment was cut off! The maintenance associate has examined Rasin's apartment and later informed Rasin that everything was connected in proper order, but it seemed that management had disconnected the services.
5. Rasin has called the management's office and spoke with the manager's assistant Nadia. **Nadia informed Rasin that due to a bounced check, their policies dictate disconnection of electricity followed by disconnection of the entrance cards and garage privileges.**
6. Immediately Rasin went to the office and spoke with Nadia and then Milagros (manager at that time) who confirmed Nadia's statements regarding **disconnection of utilities followed by disconnection of the entrance cards and denial of garage privileges.**
7. After Rasin's complaint, Rasin was verbally informed that from that point on he has to make payments by a cashier's check only!
8. Rasin argued this decision with Nadia and Milagros, but they have stated that this is their policy set by the association (agreeing that their system has made a mistake depositing Rasin's checks).
9. Electricity was restored in about four hours.

10. Rasin made the next few payments by a cashier's check (including last month's rent and security deposit).
11. In September, while on a business trip Rasin was unable to bring a cashier's check on time. On September 12th, at about 11 AM electricity was disconnected at Rasin's apartment.
12. Rasin called FPL (Florida Power and Light) and the representative informed Rasin that they have no record of anyone residing in this apartment (Apartment 1510 at 2080 s ocean drive Hallandale Beach Fl) and this property is a business account and only the business owner can turn on the electricity.
13. Rasin called management and was told that "because Rain was late on rent, electricity was turned off". Rasin tried to reason with the manager and manager's assistant **stating that this is illegal in the US⁴**, but responses were short. Rasin's wife complained that she was denied entry into the building (until a neighbor had let her in).
14. Upon return, Rasin made a rent payment, and electricity was restored.
15. The same incident of electricity disconnection happened in October, but with denial of entry to the garage, building, and elevators.
16. Rasin came to the manager's office and stated that he will have to call the police and only then services and access were restored.
17. Then again in November! At that point, Rasin has called the police. Upon police arrival and after the officer had a talk with the valet on duty, Rasin's entrance privileges and electricity was restored.

⁴Fl. Statute 83.60

18. After multiple oral requests for maintenance (including a video presentation of water surging through the closed balcony door), Rasin has submitted a written request for maintenance and notice of withholding rent due to material noncompliance along with a written request to stop harassment and to restore all services on November 10th, 2016. (see Appendix 2 EXHIBIT's 3-4)
19. Respondent 2080 and management's Response was denial of all maintenance services at the Rasin's apartment.

NO SERVICES PERFORMED EVEN AFTER 2 HURRICANES!

20. Rasin's have retained an attorney Michael Alterman. (see Appendix 2 EXHIBIT 4 page 33)
21. Landlord and management were notified by the Rasin's attorney Michael Alterman via process server, US Postal service and Email, of Landlords illegal actions, and Mr. Alterman clearly stated in his letter: **"This letter is to formally inform you that undersigned is representing Mr. and Mrs. Rasin as related to all matters involving their tenancies at 2080 s. Ocean Drive., #1510, Hallandale Beach, Fl 33009, and any and all further communication regarding this tenancy needs to be directed to our office"**. (see Appendix 2 EXHIBIT 4 page 33)
22. No communication with Rasin's attorney followed.
23. **2080** and Landlords attorneys have disregarded Mr. Alterman's formal letter of representation and failed to communicate or send any correspondence before filing complaints in Broward County court.

24. Eviction action was filed on April 11th, 2017 (CASE NO. COSO-17-005059) without posting a proper three-day notice or communication with Mr. Alterman or Rasin's.
25. Rasin has notified the Landlord's (2080) attorney Paul Kim of an absent three-day notice and errors in the complaint.
26. Upon receipt of the summons, Rasin has called and then sent a letter to 2080's attorney in a Good Face attempt to resolve the issues amicably.
27. Respondents' summons and complaint have stated: "IF YOU BELIEVE THAT THE AMOUNT IN THE COMPLAINT IS INCORRECT, YOU SHOULD FILE WITH THE CLERK OF THE COURT A MOTION TO HAVE THE COURT TO DETERMINE THE AMOUNT TO BE PAID".
(see Appendix 2 EXHIBIT 1)
28. Neither summons nor complaint stated that immediate deposit is required before filing answer and motions. (see Appendix 2 EXHIBIT 1)
29. Rasin contacted Respondent's counselor and was under the impression that he had entered in Good Face negotiations (Purple is not Red), while the opposing counselor had some other ideas.
30. Rasin has called a Broward County clerk of courts immediately upon receipt of a complaint and notified the clerk of discrepancies in filings and almost every day thereafter to confirm that the eviction case was dismissed (as promised by the opposing attorney during settlement negotiations), just to learn that there was no such action taken.
31. The clerk and the Judge have confirmed that the court would accept an answer before the default or final Judgment entered.

32. After the realization of opposing counselors' games and **attempt to elicit signatures without attorneys presence** on unfinished documents, and Rasin's wife clear objections to 2080's disguised settlement proposal, Rasin has filed an answer, motion to determine rent, and motion for mediation. (see Appendix 2 EXHIBIT 4)
33. Answer and motions were accepted by the Broward county court and set for the hearing by the Judge. Acceptance was later reaffirmed by the trial Judge upon rehearing.
34. On December 18th, 2017 at the hearing scheduled on Rasin's motion to determine rent (but hijacked by the opposing counselor), ERRED Eviction Judgement was entered against Rasin.

NO ORDER TO POST ANY DEPOSIT TO THE COURTS
REGISTRY WAS ISSUED!

35. The trial court has not reviewed Rasin's filed answers and motions including counterclaim and objections.
36. The answer, motion to determine rent and mediation, supporting documents, and counterclaim was not considered, as confirmed upon review by transferred counterclaim on January 22nd, 2018, and clearly stated on the record by the trial court upon rehearing on October 29th, 2018. (see Appendix 2 EXHIBIT 2)

37. Rasin's motions, notification of the landlord (2080) of material noncompliance and a notice of rent withholding, were not considered while issuing eviction Judgment⁵.
38. Rasin has filed a motion for rehearing and reconsideration, a notice of appeal, and scheduled a hearing for January 22nd, 2018.
39. At the rehearing, Court has realized that there was an answer, motion to determine rent and mediation, and counterclaim filed by the Rasin's and transferred the case to the circuit court, but the trial court failed to vacate ERRED eviction judgment. (see Appendix 2 EXHIBIT 6)
40. Rasin appealed eviction judgment.
41. Rasin has filed another motion for rehearing and reconsideration and was granted leave from the Appellate division of the 17th Judicial circuit and scheduled a hearing for October 29th, 2018.
42. Opposing attorneys have filed 351-page "**RESPONSE IN OPPOSITION**" on Friday night October 26, 2018, for the hearing held on Monday morning October 29th, 2018.
43. Late filing by the appellees attorneys deprived Pro se Rasin of a proper review of the cases cited, since Pro se doesn't have access to Lexis Nexis or Westlaw on the weekends, the law library is closed.
44. Court has rejected Pro se Rasin's motion to strike 2080's 351-page **RESPONSE IN OPPOSITION** filed on Friday night October 26th, 2018, for the hearing held on Monday morning October 29th, 2018 by the opposing counselor.

⁵ Notice of Material noncompliance and rent withholding is a complete defense to an action for possession based upon nonpayment of rent according to Florida's. 83.51(1)

45. One case cited by the 2080's counselor, in **RESPONSE IN OPPOSITION (351-page document filed 2 days before the hearing)**, Stanley v. Quest, Int'l Inv., Inc., 50 So.3d 672, 673 (Fla. 4th DCA 2010), which is different from the Petitioners case and can not be compared upon close examination.

46. The trial court has stated: “...that unless there is a new Appellate or Supreme court's decision, with regards to a Landlord/Tenant issue of non-payment of rent, regardless of arguments or facts preceding rent withholding, Stanley v. Quest, Int'l Inv., Inc., is a standing case...” (see Appendix 2 EXHIBIT 2).

47. Such a statement implies that the act of a legislature is not a Law, but merely a reference guide, and all cases are the same if the tenant disputes rent.

Such an argument is totally against Florida's legislature and tenants' rights and in Petitioner's humble opinion requires this court's review and detailed opinion on issues raised for GREATER PUBLIC GOOD.

Summary of The Argument

- I. Where the amount to be deposited exceeds the jurisdictional limit of the county court (Fl. Statute 34.01 \$15,000.00 in 2016)⁶, the case should be transferred to the circuit court.
- II. If a Motion for determination of rent to be paid into the registry is filed with supporting documents and in accordance with the request indicated in the summons and complaint, the court should conduct a hearing to determine the amount of rent to be posted considering the language in the summons and

⁶ Fl. Statute 34.01

complaint. When the amount is contested a hearing must be held and an order to deposit money issued! (Fl. Statute 83.232 and Fl. Statute 83.60(2))⁷.

- III. Rent withholding due to material noncompliance (Fl. Statute 83.51(1))⁸ is a Law and a complete defense in an action for possession!

ARGUMENT

I. Jurisdictional limit of the court Statute 34.01

48. Where Tenant files a counterclaim for damages in excess of the jurisdictional amount, or (Statute 34.01 and Rule 7.100(d), Florida Small Claims Rules), the claims of all parties, including eviction claim, shall be resolved by the circuit court (Herrell v. Seyfarth, Shaw, Fairweather & Geraldson, 491 So. 2d 1173 (Fla. 1st DCA 1986), CKN Airways, Inc. v. Flagler County, 441 So. 2d 1103 (Fla. 5th DCA 1983))⁹.

49. Rasin has indicated an amount, which was above the court's jurisdictional limit, in an answer and counterclaim filed with motions and the supporting documents. Where the amount in dispute (or to be deposited) is above the jurisdictional limit of the county court (\$15,000.00 in 2016 was the jurisdictional limit of the county court in Broward county), the case must be transferred to a court with appropriate jurisdiction, which is Circuit court.

⁷ Fl. Statute 83.232 and Fl. Statute 83.60(2)

⁸ Fl. Statute 83.51(1)

⁹ Herrell v. Seyfarth, Shaw, Fairweather & Geraldson, 491 So. 2d 1173 (Fla. 1st DCA 1986), CKN Airways, Inc. v. Flagler County, 441 So. 2d 1103 (Fla. 5th DCA 1983)

Good To Go Food Store, Inc. v. LRM Realty, LLP, 93 So.3d 362 (Fla. 2d DCA 2012)¹⁰.

50. The trial court has clearly stated upon rehearing, that the only factor considered in a rendering of an eviction Judgment was a landlord attorney's statement of non-payment of rent! No other facts on the record, tenants' arguments, motions or supporting documents were considered (see Appendix 2 EXHIBIT 2 transcript page 9).

51. Upon rehearing the case was transferred, and the Order dated January 25, 2018 clearly states: ..." trial court does not have jurisdiction"... (see Appendix 2 EXHIBIT 6).

52. The case was transferred to a circuit court upon rehearing and court's review of the previously filed documents (see Appendix 2 EXHIBIT 6), but eviction Judgment not vacated, which was an ERROR made by the trial court.

53. **Since the trial court acknowledged in the order to transfer the case upon rehearing that the trial court does not have jurisdiction (see EXHIBIT 6) then it is obvious that the trial court did not have jurisdiction to issue eviction judgment, and clearly supports Petitioner's claim.** Good To Go Food Store, Inc. v. LRM Realty, LLP, 93 So.3d 362 (Fla. 2d DCA 2012)¹¹

¹⁰ Good To Go Food Store, Inc. v. LRM Realty, LLP, 93 So.3d 362 (Fla. 2d DCA 2012)

¹¹ Good To Go Food Store, Inc. v. LRM Realty, LLP, 93 So.3d 362 (Fla. 2d DCA 2012)

Wherefore, petitioner respectfully requests this court to reverse the trial court's and Appellate division courts decision and issue a detailed written opinion, since Petitioner strongly believes it is in a **Greater Good of Public importance**.

II. Rent determination Fl. Statute 83.60(2) and 83.232

54. Petitioner has received a complaint from the Respondent, and The language in the four corners of the Respondents summons and complaint states: **“IF YOU BELIEVE THAT THE AMOUNT IN THE COMPLAINT IS INCORRECT, YOU SHOULD FILE WITH THE CLERK OF THE COURT A MOTION TO HAVE THE COURT TO DETERMINE THE AMOUNT TO BE PAID”** It is very clear on what Petitioner (tenant) has to do in accordance with the Respondents request and applicable laws, correct? (see Appendix 2 EXHIBIT 1)

55. **Florida Statute Section 83.60(2)** provides that the tenant can **“File a motion to determine the amount of rent.”** *Green v. Liberty City Cmty. Economic Dev. Corp.*, 21 Fla. L. Weekly Supp. 122a (Fla. 11th Cir. Ct. Nov. 21, 2013)¹².

56. **Florida Statute 83.232** clearly provides for these issues if the tenant contests the amount of accrued rent (or required deposit) and the amount is indicated in the complaint with detailed instructions, and language in the four corners of the Respondents summons and complaint states: **“IF YOU BELIEVE THAT THE AMOUNT IN THE COMPLAINT IS**

¹² *Green v. Liberty City Cmty. Economic Dev. Corp.*, 21 Fla. L. Weekly Supp. 122a (Fla. 11th Cir. Ct. Nov. 21, 2013).

INCORRECT, YOU SHOULD FILE WITH THE CLERK OF THE COURT A MOTION TO HAVE THE COURT TO DETERMINE THE AMOUNT TO BE PAID” (see Appendix 2 EXHIBIT 1)

57. The Petitioner has done exactly what Respondent asked him to do and in accordance with The applicable Laws!

58. If the tenant files a motion for determination of rent to be paid into the registry, the court should conduct a hearing to determine the amount of rent to be posted, **the hearing is limited in scope only to determine the amount of rent to be posted.** Olszewska v. Ferro, 590 So. 2d 11 (Fla. 3d DCA 1991)¹³.

No hearing was conducted and no order to deposit disputed amounts was issued.

59. Respondent (Landlord) did not ask for any immediate deposit if the amount is contested.

60. The Law clearly provides that if the amount is contested the hearing must be held and an order must be issued!

61. The Florida Statutes or The case law, or The language in the Respondents complaint is silent on the **voluntary deposit** to the court’s registry! There is

¹³ Olszewska v. Ferro, 590 So. 2d 11 (Fla. 3d DCA 1991)

no mention of **one dollar** or any other amount that is required to be deposited without a court order if the amount indicated in the complaint is contested!

62. The Statutes and the language in the complaint clearly support Petitioner's actions in this particular case. Petitioner has adhered to all requirements indicated in the complaint and in accordance with the law!

63. Petitioner has reviewed summons and complaint and followed instructions in the Respondents summons and complaint and filed a motion for rent determination in accordance with the Law.

64. What other guidance does Petitioner (especially Pro se tenant) have besides the summons and complaint that he has received and the applicable law?

65. In Petitioner's case Respondent clearly indicated their position in the four corners of the complaint, and defined steps required by the Florida Statutes that the Legislature has provided to seek civil resolution of these issues.

66. Respondents' (Landlord's) summons and complaint clearly defines actions requested and Florida Statutes clearly define actions that must be taken by the Petitioner (Tenant) which the Petitioner has followed to the dot! But apparently, the trial court of Broward County and the Appellate division of the 17th judicial circuit guided by different rules!

67. Petitioner (Tenant) has filed an answer, motion to determine rent with supporting documents, and motion for mediation with the clerk! The motion was not heard and no order to deposit rent is on the record! Erred eviction judgment rendered!
68. The trial court has failed to review Petitioner's filed answer, motions, and supporting documents and has issued an ERRED judgment in clear violation of the Florida Statute 83.60 and 83.232 and summons sent to the Petitioner.
69. The Appellate Division of the 17th Judicial Circuit has clearly overlooked these facts and wrongfully affirmed.

Such a drastic departure from Florida's legislature (Statute 83.60(2) and 83.232) is detrimental to the public's trust.

70. The trial court has stated upon rehearing: “...**that unless there is a new Appellate or Supreme court's decision, with regards to a Landlord/Tenant issue of non-payment of rent, regardless of arguments or facts preceding rent withholding, Stanley v. Quest, Int'l Inv., Inc., is a standing case...**” (see Appendix 2 EXHIBIT 2 Transcript page 9).
71. In **Stanley v. Quest Int'l inv., Inc.**, the tenant has failed to file a Motion for rent determination with supporting documents (if a tenant in fact was contesting rent amount), but instead the tenant based his defense on a filed

motion to dismiss and defective three-day notice, which is a critical difference with the current case.

72. **Judge Lee wrote in his opinion:** “The Legislature has provided that failure to post unpaid rent is not merely a waiver; it is an absolute waiver. The plain Language of the Statute Requires it.” And since Fl. Statute 83.60 (2) clearly states:

*...”In an action by the landlord for possession of a dwelling unit, if the tenant interposes any defense other than payment, including, but not limited to, the defense of a defective 3-day notice, the **tenant shall pay into the registry of the court the accrued rent as alleged in the complaint or as determined by the court”...***

73. According to Judge Lee’s opinion and concurred, Judges Demorgian and Gerber JJ. of 4th DCA view on the **Stanley v. Quest Int’l inv., Inc.**, case, the Appellant’s case was based mostly on a defective three day notice and apparently the instructions in summons and complaint were not followed properly, motion for rent determination not filed (or filed without supporting documents or without previously filed notice of material noncompliance and intention to withhold rent) and that is only few reasons why this case can not be used universally pertaining to the evictions based on unpaid rent!

The current case is completely different!

74. In the current case, Petitioner has filed proper notices with the Respondent (notice of material non-compliance and rent withholding) (see Appendix 2

EXHIBIT 3), Petitioners attorney sent a formal letter to the Respondent with the request to stop illegal activities and fix the issues. (see Appendix 2 EXHIBIT 4) Petitioner followed all Statutory requirements by submitting proper motions with detailed supporting documents to the court.

75. Steps taken by the Petitioner before and during eviction:

- a) notice of material non-compliance and rent withholding where petitioner has written to the respondent: “We are withholding rent due to maintenance issues in our apartment and harassment by the management” on November 10, 2016 with the list of required repairs in the apartment. (see Appendix 2 EXHIBIT 4 page 35)
- b) Petitioner has retained an attorney who has written to the Respondent: “This letter is to formally inform you that undersigned is representing Mr. and Mrs. Rasin as related to all matters involving their tenancies at 2080 s. Ocean Drive., #1510, Hallandale Beach, Fl 33009, and any and all further communication regarding this tenancy needs to be directed to our office” on December 16, 2016. (see Appendix 2 EXHIBIT 4 page 33)
- c) Respondent ignored Petitioners letter and Petitioners attorney’s letter and retaliated with disconnection of utilities and denial of entry.
- d) Upon receipt of the eviction summons Petitioner has followed instructions in the summons which state:... **“IF YOU BELIEVE THAT THE AMOUNT IN THE COMPLAINT IS INCORRECT, YOU SHOULD FILE WITH THE CLERK OF THE COURT A**

MOTION TO HAVE THE COURT TO DETERMINE THE AMOUNT TO BE PAID” (see Appendix 2 Exhibit 1)

- e) Petitioner reviewed applicable laws contacted the court and filed requested documents including “Motion fo rent determination” (see Appendix 2 Exhibit 3 page 26-27) as requested by the Respondent in the Summons and with accordance to the plain language in the Fl. Statute 83.60 which clearly states ”*In an action by the landlord for possession of a dwelling unit, if the tenant interposes any defense other than payment, including, but not limited to, the defense of a defective 3-day notice, the tenant shall pay into the registry of the court the accrued rent as alleged in the complaint or as determined by the court*”... (see Appendix 2 EXHIBIT 8)
- f) Petitioner communicated with the court and opposing counselor and appeared at the hearing on the Motion to determine the amount to be paid into the court's registry.
- g) Motion was not discussed, order to deposit any amount was not issued and ERRED eviction order issued.
- h) Petitioner filed a notice of appeal and asked for rehearing
- i) Upon rehearing the trial court realised that documents were not reviewed and transferred the case to the Circuit court, but failed to vacate ERRED eviction Judgment.
76. Facts of the case prove that the documents provided to the court were simply not reviewed prior to issuance of a Rushed Judgment, as it is clearly supported by the trial courts acknowledgement of Jurisdictional issues and

transferring a case to a Circuit court UPON REHEARING! and stated by the Judge on the record. (see EXHIBIT 2)

While a trial court is expected to have flexibility in rendering decisions, the court's ultimate duty is to uphold the legislature and base the court's decision on merit, as stated in the Supreme court's opinions and decisions.

Wherefore, petitioner respectfully requests this court to reverse the trial court's and Appellate division courts decision and issue a detailed written opinion, since Petitioner strongly believes it is in a **Greater Good of Public importance**.

III. Material noncompliance 83.51(1).

77. "The defense of material noncompliance with s. 83.51(1) may be raised by the tenant if 7 days have elapsed after the delivery of written notice by the tenant to the landlord, specifying the noncompliance and indicating the intention of the tenant not to pay rent by reason thereof. Such notice by the tenant may be given to the landlord, the landlord's representative as designated pursuant to Fl. Statute 83.50, a resident manager, or the person or entity who collects the rent on behalf of the landlord"

78. Since the Petitioner (Rasin) has properly notified Respondent (2080) of the material noncompliance and Respondent completely ignored this notice and Petitioner's attorney letter (see EXHIBIT 3), Petitioner has **a complete defense to an action for possession based upon nonpayment of rent! Fl. Statute 83.60 (b) ...**"*The defense of a material noncompliance with s.*

83.51(1) may be raised by the tenant if 7 days have elapsed after the delivery of written notice by the tenant to the landlord, specifying the noncompliance and indicating the intention of the tenant not to pay rent by reason thereof”...

79. As noted in an established courts decisions “In the context of a landlord/tenant relationship, the law is well settled that after a tenant takes possession of a residential dwelling unit a landlord has a continuing statutory duty to maintain common areas in a safe condition and to repair dangerous, defective conditions upon notice of their existence unless otherwise agreed to by the tenant. See § 83.51(2)(a)3., Fla. Stat. (2007); Mansur v. Eubanks, 401 So.2d 1328, 1330 (Fla.1981) ¹⁴**(the owner has a duty “to transfer a reasonably safe dwelling unit to the tenant and to exercise reasonable care to repair dangerous, defective conditions upon notice of their existence by the tenant,” unless the tenant waived such defects).**

The policy reason for imposing this duty on the landlord was explained by the Supreme Court in its seminal Mansur decision.

Supreme Court has stated:

“We do not believe there are sufficient reasons to continue to completely insulate the landlord from liability. We live in an age when the complexities of housing construction place the landlord in a much better position than the tenant to guard against dangerous conditions”¹⁵

¹⁴ § 83.51(2)(a)3., Fla. Stat. (2007); Mansur v. Eubanks, 401 So.2d 1328, 1330 (Fla.1981)

¹⁵ Mansur, 401 So.2d at 1330. Eviction Judgment was reversed.

Wherefore, petitioner respectfully requests this court to reverse the trial court's and Appellate division courts decision and issue a detailed written opinion, since Petitioner strongly believes it is in a **Greater Good of Public importance**.

CONCLUSION

1. Based on the facts stated above The Trial court's decision and the Appellate division's of the 17th judicial circuit court review of the Final Judgement and/or Amended Final Judgement against Alexei and Kateryna Rasin must be reversed as a matter of law.
2. As a matter of law, this court must instruct the Circuit court, or another appropriate court to compensate the Petitioner for the damages and all incurred costs.
3. Due to an abundance of decisions and arguments based on an abridged or **“Cherry-picked excerpts”** from Florida's Statute 83.60(2), and abuse of so-called “standing case” (reference to Stanley v. Quest, Int'l Inv., Inc¹⁶), Appellant respectfully requests this court's opinion and a request for a Florida Supreme Court's expedited review, opinion, and/or clarification of Florida's Statute 83.60(2) due to **EXTREME PUBLIC IMPORTANCE!**

Respectfully submitted, December 7, 2020

Petitioner Alexei Rasin

ADDRESS:

¹⁶ Stanley v. Quest, Int'l Inv., Inc

1025 E Hallandale Beach BLVD. STE 15-803

Hallandale Beach, FL 33009

PHONE 305-747-3243

I HEREBY CERTIFY that the size and style of type used is 14-point Times New Roman, in compliance with Fl. R. App. P. 9.210(a)(2). This document has 24 pages and 4804 words.

CERTIFICATE OF SERVICE

I certify that a copy hereof has been electronically filed and served by email and using the Florida Courts E-Filing Portal on Paul Kim paul@condo-laws.com counsel of record for the Respondent.

A handwritten signature in black ink that reads "A. Rasin". The signature is written in a cursive, flowing style.

Alexei Rasin

1025 E Hallandale Beach BLVD. STE 15-803

Hallandale Beach, FL 33009

PHONE 305-747-3243

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

February 08, 2021

CASE NO.: 4D20-2515

L.T. No.: CACE18-001044 AP,
COSO17-005059

ALEXEI RASIN

v. 2080 OCEAN DRIVE CONDOMINIUM
ASSOCIATION, INC.

Appellant / Petitioner(s)

Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that the petition for writ of certiorari is denied because, even if true, none of the alleged errors amount to a departure from the essential requirements of law resulting in a miscarriage of justice. Further,

ORDERED that petitioner's December 7, 2020 request for oral argument is denied.

WARNER, MAY and CIKLIN, JJ., concur.

Served:

cc: Paul Kim

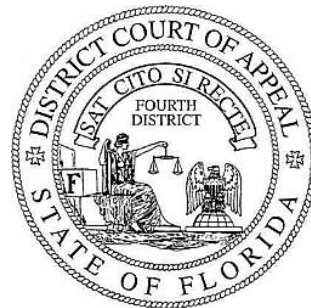
Alexei Rasin

Clerk Broward

kh



LONN WEISSBLUM, Clerk
Fourth District Court of Appeal



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

March 05, 2021

CASE NO.: 4D20-2515

L.T. No.: CACE18-001044 AP,
COSO17-005059

ALEXEI RASIN

v. 2080 OCEAN DRIVE CONDOMINIUM
ASSOCIATION, INC.

Appellant / Petitioner(s)

Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that appellant's February 10, 2021 motion for rehearing and written opinion is denied.

Served:

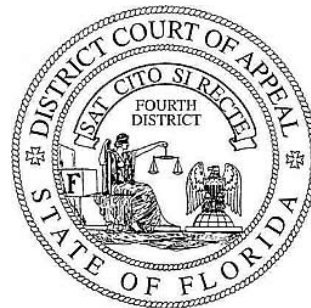
cc: Paul Kim

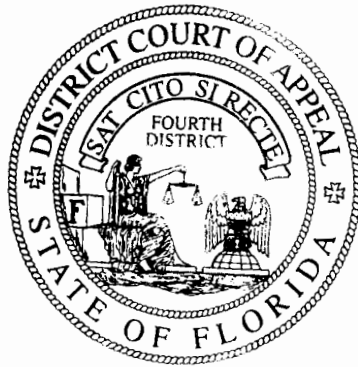
Alexei Rasin

kr



LONN WEISSBLUM, Clerk
Fourth District Court of Appeal

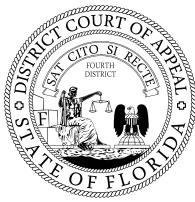




I hereby certify that the above and foregoing is a true copy of instrument filed in my office.

**Lonn Weissblum, CLERK
DISTRICT COURT OF APPEAL OF
FLORIDA, FOURTH DISTRICT**

Per *Kristen Amoro*
Deputy Clerk



**FOURTH DISTRICT COURT OF APPEAL
110 SOUTH TAMARIND AVENUE
WEST PALM BEACH, FLORIDA 33401
(561) 242-2000**

Date: _____

Case Name: _____

Case No: **4D** _____

Trial Court No.: _____

Trial Court Judge: _____

Dear Mr. Tomasino:

Attached is a certified copy of a Notice to Invoke Discretionary Jurisdiction/Notice of Appeal to the Supreme Court of Florida pursuant to Rule 9.120, Florida Rules of Appellate Procedure. Attached also is this Court's opinion or decision relevant to this case.

The filing fee prescribed by Section 25.241(3), Florida Statutes, was received by this court and will be mailed.

The filing fee prescribed by Section 25.241(3), Florida Statutes, was not received by this court.

Petitioner/Appellant has been previously determined insolvent by the circuit court or our court.

Petitioner/Appellant has already filed, and this court has granted, petitioner/appellant's Motion to proceed without payment of costs in this case.

Petitioner/Appellant filed Notice via EDCA and the fee has not been received by this court.

No filing fee is required in the underlying case in this court because it was:

- A Summary Appeal (Rule 9.141)
- From the Unemployment Appeals Commission
- A Habeas Corpus Proceeding
- A Juvenile Case
- Other – _____

If there are any questions regarding this matter, please do not hesitate to contact this Office.

Sincerely,

LONN WEISSBLUM
Clerk of the Court

By: _____
Deputy Clerk