

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
Civil Division**

**IRIS HERNANDEZ**  
**Plaintiff**

vs

**JAMOL SPEIGHT, et al.,**  
**Defendants**

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**Docket No. 2023 CAB 2349**

**ORDER**

Before the Court is defendants’ Motion to Set Aside a Default filed on October 20, 2023. Plaintiff filed an opposition on November 2, 2023. Defendant seeks relief pursuant to Super. Ct. Civ. R. 55.

Plaintiff filed a Complaint on April 17, 2023, alleging violations of the District of Columbia Minimum Wage Act in violation of D.C. Code § 32-1001 *et seq.* On April 27, 2023, plaintiff filed an affidavit of service indicating that defendant Jamol Speights was personally served on April 24, 2023, at 2420 Southern Avenue, S.E. at 5:51 p.m. On July 21, 2023, the court entered a default pursuant to R. 55 when defendant failed to file an answer or otherwise defend this action. The matter was set for an ex parte proof hearing on September 29, 2023, and notice was issued.

On September 18, 2023, plaintiff filed a Motion for Default Judgement. The court entered a default judgment on September 29, 2023. Defendant filed the instant motion seeking relief pursuant to R. 55. In the motion, defendant contends that he was not served and was not aware of this action until his bank account was seized.

As an initial matter, defendant seeks relief from the default judgment pursuant to R. 55(c). That provision provides the court with the authority to vacate a default when

good cause is shown, and a verified answer has been filed. Relief under this provision is not available to defendant because the court entered a default judgment pursuant to R. 55(b) on September 29, 2024. In addition, defendant has not filed a verified answer that establishes a defense to the claims in whole or in part as required by R. 55(c)(2).

Super. Ct. R. 60(b) provides a mechanism for relief from the entry of judgment. The rule provides that a court may grant relief from final judgment for any of the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief. *See United Supreme Council v. Most Worshipful Prince Hall Grand Lodge*, 2019 D.C. Super. LEXIS 10; *See also Brown v. Kone, Inc.* 841 A.2d 331 (D.C. 2004).

In the instant motion, defendant seeks relief claiming that defendant was not served. Defendant has presented no evidence other than the assertion that he was not served. The affidavit filed by plaintiff indicates that service was effectuated April 24, 2023. Defendant has not presented the type of strong or convincing evidence that would provide a basis to impeach the validity of the affidavit. *Firemen's Ins. Co.*, 455 A.2d 908, 909 (D.C. 1983).

Based on the foregoing, defendant has not produced evidence sufficient to support the requested relief.

**WHEREFORE**, for the above stated reasons and any others that may appear from a review of the entire record herein, it is 6<sup>th</sup> day of June, 2024 hereby

**ORDERED:** that defendants' Motion to Set Aside Default is **DENIED**.

/s/

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MILTON C. LEE, JR.  
Associate Judge  
*Signed in Chambers*

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