

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

HOTEL FURNITURE LIQUIDATORS OF
PHILADELPHIA, INC.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

CASTOR AVENUE PROPERTIES, LLC

Appellant

No. 2075 EDA 2015

Appeal from the Order Entered May 27, 2015
In the Court of Common Pleas of Philadelphia County
Civil Division at No(s): December Term, 2014, No. 00855

HOTEL FURNITURE LIQUIDATORS OF
PHILADELPHIA, INC.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

CASTOR AVENUE PROPERTIES, LLC

Appellant

No. 2377 EDA 2015

Appeal from the Judgment Entered June 26, 2015
In the Court of Common Pleas of Philadelphia County
Civil Division at No(s): December Term, 2014, No. 00855

BEFORE: FORD ELLIOTT, P.J.E., OTT, J., and MUSMANN, J.

CONCURRING AND DISSENTING STATEMENT BY OTT, J.: **FILED APRIL 29, 2016**

While I join in the decision of the Majority that rejected the argument of Castor Avenue Properties, LLC ("Castor") that the trial court erred in denying its Petition to Open Default Judgment, I write separately to express

my view that Castor waived its argument that the trial court erred as a matter of law in assessing damages against Castor. In my view, because Castor failed to file a motion for post-trial relief as required by Pennsylvania Rule of Civil Procedure 227.1 following the assessment of damages hearing, this Court should not address the damages issue on the merits. Therefore, I would adopt the trial court's discussion regarding waiver as dispositive of this issue. **See** Trial Court Opinion, 8/28/2015, at 7–8.