

REAL ESTATE WEEKLY

Salad Bar Gets the Cold Shoulder in Sandy Case

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By Sarah Trefethen



A civil court judge has ruled that a Lower Manhattan tenant who supplied its own electricity in the aftermath of Superstorm Sandy is not entitled to a rent abatement for the time it operated without electricity in the building.

Just Salad, a restaurant tenant at 100 Maiden Lane, obtained a generator and resumed operation on December 7, a little over a month after Sandy left the entire mixed-use building without power, according to court documents. The landlord, Maiden Lane Properties, had supplied a generator for residential tenants but

not its retail tenants.

Just Salad did not pay any rent for the months of December and January, even though it was in operation, arguing that it was not obligated to pay because the landlord had failed to repair the damages to the building caused by the storm.

Based on the wording of the lease, however, Manhattan Civil Court Judge Jennifer Schecter disagreed.

In her ruling, she points to a section of the lease that specifically states that the landlord is not responsible for any curtailment or failure to supply electricity to the space.

“Just Salad has not shown that [the landlord] had any obligation to provide it with access to a generator,” the judge wrote.

Just Salad has filed a notice of appeal and is looking at possible next steps, according to Steve Kirkpatrick of Belkin Burden Wenig & Goldman, counsel to the tenant, who said he disagreed with the judge’s reading of the wording of the lease.

But **Adam Leitman Bailey**, who represented the landlord, said he is happy with the decision.

“This case resolves one of the most popular questions relating to Sandy and commercial spaces,” **Bailey** wrote in a statement. “The court resoundingly stated that it will look to the lease to see if an abatement or what duties the landlord will provide.”