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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 35

Awards.com, LLC et al.,
Appellants,

v.

Kinko's, Inc. et al.,
Respondents,

Gary Kusin,
Defendant.

Alan I. Raylesberg, for appellants.
Terrence O. Reed, for respondents.

MEMORANDUM:

The judgment of Supreme Court appealed from and the
order of the Appellate Division brought up for review should be
affirmed with costs.

Under the circumstances of this case, defendant

Kinko's, Inc. was justified in terminating its contract with plaintiff Inspire Someone, LLC. The failure of Inspire Someone to pay its monthly rent promptly was a material breach (see Madison Ave. Leasehold, LLC v Madison Bentley Assoc. LLC, 8 NY3d 59, 65 [2006]; Fifty States Mgt. Corp. v Pioneer Auto Parks, 46 NY2d 573, 578 [1979]); the contract contained no provision for a grace period, and no requirement that Kinko's give notice of a breach and an opportunity to cure it; and Kinko's did not waive its right to terminate.

* * * * *

Judgment of Supreme Court appealed from and order of the Appellate Division brought up for review affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided March 30, 2010