

IN THE COURT OF COMMON PLEAS IN THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

ERIC D. HUDSON,)	
)	C.A. No. U508-10-0050AP
Defendant-Below,)	
Appellant,)	
)	
v.)	
)	
BERTHA JACKSON and)	
CHRISTOPHER GILMAN)	
)	
Plaintiffs-Below,)	
Appellees.)	

July 12, 2010

Eric D. Hudson
167 Thomas Harmon Drive
Camden, DE 19934

Bertha Jackson
94 Southern View Drive
Smyrna, DE 19977

Christopher Gilman
P O Box 11246
Elkins Park, PA 19027

**DECISION ON DEFENDANT'S MOTION FOR JUDGMENT
FOR FAILURE TO PLEAD**

In this civil appeal from the Justice of the Peace Court, I grant the appellant/defendant-below's Motion for Judgment for Failure to Plead because the appellees/plaintiffs-below failed to file a Complaint as required by Court of Common Pleas Civil Rule 72.3(a) and Court of Common Pleas Civil Rule 55(bb2).

BACKGROUND

On October 7, 2008, judgment was entered in Justice of the Peace Court on behalf of Appellee/Plaintiffs-Below, Bertha Jackson and Christopher Gilman (“Plaintiffs”), and against Appellant/Defendant-Below, Eric D. Hudson (“Defendant”), for \$2,400.00 plus court costs. The defendant filed a Notice of Appeal and Praecipe with this Court on October 10, 2008. Copies were served upon the plaintiffs on October 23, 2008.

On March 13, 2009, the defendant filed a Motion for Judgment for Failure to Plead against the plaintiffs for failure to file a Complaint in this Court¹. The defendant’s motion was denied because of incorrect information which appeared on the original summons which was served on the plaintiffs. Plaintiffs were re-served with a corrected Notice of Appeal and Praecipe on April 15, 2009.

The defendant has renewed his Motion for Failure to Plead as the plaintiffs have once again failed to file a Complaint after being re-served with the defendant’s corrected Notice of Appeal and Praecipe. Plaintiff Christopher Gilman has submitted a letter to the Court stating that he was unaware that he had to file paperwork with the Court within twenty days of receiving the Notice of Appeal and has asked the Court to deny the defendant’s motion². Plaintiff Bertha Jackson recently filed a letter with the Court indicating that she concurs with Plaintiff Christopher Gilman’s position on the defendant’s motion.

¹ Defendant filed his motion as a Motion for Default Judgment. It is actually a Motion for Judgment for Failure to Plead. The Court will, therefore, treat and refer to it as such.

² A party’s status as a self-represented litigant does not excuse a failure to strictly comply with Delaware law and Court rules when pursuing an action. *Nti v. Hall*, 2007 WL 3231601, at *2 (Del. Com. Pl.) (citing *Laboy v. State*, 846 A.2d 238, 238 (Del. 2003)). A self-represented litigant must exercise good faith and reasonableness in prosecuting his claim. *Id.* (citing *Arots v. Salesianum Sch., Inc.*, 2003 WL 21398017, at *4 (D. Del. 2003)).

DISCUSSION

When an appeal from the Justice of the Peace Court is entered in the Court of Common Pleas, “the pleadings and proceedings thereafter shall be as in other civil actions commenced in the Court.” 10 *Del. C.* § 9572. Once the plaintiffs were served with the defendant’s Notice of Appeal, as appellees and plaintiffs-below, they were required to file a Complaint with this Court within twenty days. Court of Common Pleas Civil Rule 72.3(a) provides, in pertinent part, as follows:

[w]hen the appellee is the party having the duty of filing the complaint or other first pleading on appeal, the appellee shall serve a copy of such pleading within 20 days after service of process on appeal.

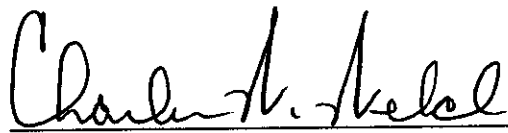
CCP Civ. R. 72.3(a). Furthermore, Court of Common Pleas Civil Rule 55(bb2) states:

[w]hen an appellee having the duty of serving the complaint or other first pleading fails to do so as required by Rule 72.3(a), judgment shall be entered against appellee for failure to plead.

CCP Civ. R. 55(bb2).

In this case, the plaintiffs failed to file a Complaint in accordance with Rule 72.3(a) within twenty days after being served with the defendant’s Notice of Appeal. Therefore, judgment is entered for the defendant against the plaintiffs pursuant to Rule 55(bb2) for the plaintiffs’ failure to plead.

IT IS SO ORDERED this 12th day of JULY, 2010.



CHARLES W. WELCH
JUDGE