

**IN THE JUSTICE OF THE PEACE COURT OF
THE STATE OF DELAWARE, IN AND FOR SUSSEX COUNTY
COURT NO. 17**

**COURT ADDRESS:
23730 SHORTLY ROAD
GEORGETOWN DE 19947**

CIVIL ACTION NO: JP17-10-000325

GERALD SMITH ET AL VS BRIAN UPSHUR ET AL

**SYSTEM ID: @2195820
RACHAEL UPSHUR(REUTOUL)
28275 CANNON ST.
MILLSBORO DE 19966**

Appearances: All parties appeared *pro se*.

Before: Sheila G. Blakely, Deputy Chief Magistrate; Richard D. Comly and John C. Martin, Justices of the Peace

Martin for the Court

NOTICE OF COURT ACTION

The Court has entered a judgment or order in the following form:

AMENDED

On January 22, 2010 the plaintiff filed this action seeking to recover unpaid rent and possession of the property located at 28275 Cannon Street, Millsboro, Delaware. Trial was held on February 18, 2010 and judgment was entered on behalf of the plaintiffs. On February 23, 2010 the defendants filed an appeal of this judgment. This is the decision of the three Judge Panel hearing the appeal as a trial *de novo* on March 22, 2010.

Mr. Smith stated that the defendants owed a balance on their November rent of \$63.11; January and February rent of \$850.00 each; March per diem rent of \$623.33 to the date of trial; a late fee of \$42.50 each month for January, February and March; a sewer fee of \$37.29 for each month from March 2009 to February 2010 and March per diem sewer fee of \$27.28. The total of this was \$2,988.63. Mr. Smith sent a five day notice to the defendants on January 12, 2010 but the rent was not paid within this period.

Mr. Upshur admitted that the defendants had not paid the rent and late fees claimed by the plaintiffs and the sewer bills from January, February and March of 2010 but stated that he did pay the sewer bills for all of 2009. The defendants received the notice letter sent by the plaintiffs but the rent was not paid within the notice period. The defendants now had the money available to pay what was owed if the plaintiffs would allow them to stay in the property.

Mr. Smith agreed to delete the disputed sewer bills from the plaintiffs' demand, reducing their total claim to \$2,616.34 but he stated that the plaintiffs would pursue possession of the property.

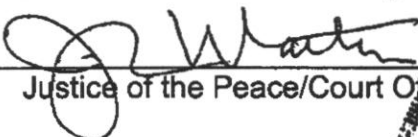
The Court found that the plaintiffs had proven their claim by a preponderance of the evidence and so they were entitled to the monetary judgment they sought along with possession of the property.

ORDER

After considering all the evidence presented, the Court entered judgment on behalf of the plaintiffs and against the defendants in the amount of \$2,613.34 plus court costs of \$40.00, post judgment interest at the legal rate of 5.75% per annum, per diem rent to the date of actual possession of \$28.33 and possession of the rental property.

On March 24, 2010 this judgment was amended to correct a typographical error showing an incorrect address for the rental property. The correct address is 28275 Cannon Street, Millsboro, Delaware.

IT IS SO ORDERED this 24th day of March, 2010


Justice of the Peace/Court Officer

