

**IN THE JUSTICE OF THE PEACE COURT NO. 16  
OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY**

<b>MARGARET M. MOSLEY,</b>	§	
	§	
Plaintiff,	§	
	§	
v.	§	C.A. No. JP16-10-005890
	§	
<b>CONSTANCE V. DEXTER,</b>	§	
	§	
Defendant.	§	

Before **MURRAY, ARNDT, and SWEET**, Magistrates

**ORDER**

This is a *de novo* appeal as provided by 25 *Del. C.* § 5717(a) to a Three Judge Panel from a decision dated December 21, 2010. The panel consisting of Judges Murray, Arndt, and Sweet began trial on January 20, 2011.

Margaret M. Mosley, Plaintiff and Constance V. Dexter appeared *pro se*.

Plaintiff seeks possession and payment of back rent from May 2008, on the basis the Defendant failed to pay rent.

Pre trial, based on the filings, the Court questioned the parties regarding the existence of a landlord/tenant relationship. As a result of the questioning, the parties demonstrated to the satisfaction of the Court that although there was no written lease, there was a meeting of the minds between the parties regarding periodic payment of rent in exchange for occupying the premises. At this point, the Court was satisfied it had jurisdiction and proceeded to trial.

During the presentation of the Plaintiff's case-in-chief, the following was introduced.:

- A copy of the will of Doris Campbell leaving the property to the Plaintiff,
- The Kent County Register of Wills registration of the will,
- A deed transferring the property from the previous owner to Doris Campbell nee Floyd,
- A satisfied mortgage regarding the prior transaction,
- A letter from the Kent County Register of Wills dated October 21, 2009 to the Defendant indicating the Plaintiff had filed the First and Final Account for the estate and requiring all exceptions to the account be filed within 3 months, and

- An inventory for the Register of Wills of the estate indicating "Connie Loper" the Defendant's name at the time, may be a partial heir to the estate.

The validity of the documents was questioned by the Defendant and this again raised the question of jurisdiction of the Court. Final determination of the question of ownership of the property is not within the jurisdiction of this Court. Without that determination, the Court cannot proceed further on the landlord/tenant issue; therefore, the Court stayed further proceedings and issued the following order to the Defendant:

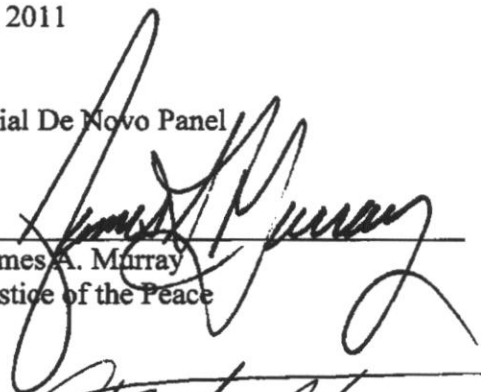
- The Defendant has 30 days from January 20, 2011 to file an action contesting ownership of the property in a Court of competent jurisdiction **AND** to provide proof of the filing and its acceptance to this Court. The Court will then stay the proceedings pending the outcome of the action contesting the ownership of the property.
- If, at the end of the 30 day period, the Defendant has not complied with the above, the Court will reschedule and resume the trial at the point where it recessed.

The Defendant was cautioned the "clock is ticking" on the order and both parties were advised to consult legal counsel.

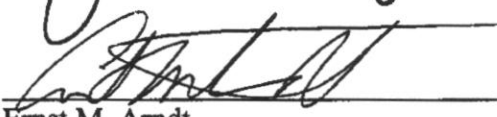
The Court recessed.

**IT IS SO ORDERED** this 20<sup>th</sup> day of January, 2011


Trial De Novo Panel



James A. Murray  
Justice of the Peace



Ernst M. Arndt  
Deputy Chief Magistrate



William J. Sweet  
Justice of the Peace