

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

MEAGHAN S. MORAN,

Plaintiff,

v.

FREDERICK WILLIAMS and
MARY CRUZ,

Defendants.

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C.A. No. JP16-09-007839

Submitted: January 26, 2010
Decided: January 26, 2010

Before **HUTCHISON, COX** and **PENNELLA**, Magistrates.

ORDER

This is an action for summary possession and accrued rent owed in a landlord/tenant case, which was appealed to a three Justice of the Peace Panel. Trial *de novo* before a Special Court comprised of a Three Judge Panel, Judges Hutchison, Cox and Pennella as provided by 25 *Del. C.* § 5717(a) was scheduled this date. Meaghan S. Moran (“plaintiff”) was represented by James Stiller, Esquire. Frederick Williams and Mary Cruz (“defendants”) appeared *pro se*.

The Court finds there is a verbal landlord-tenant relationship. Testimony confirms that the parties entered into an agreement on June 1, 2008 that defendants would pay one-half of the utilities which included gas and electric. Plaintiff testified there were two later agreements: (1) An agreement made on November 12, 2008 for rent in the amount of \$75 per week plus one-half the utilities, and (2) An agreement made on March 1, 2009 for rent in the amount of \$75 per week plus all utilities. Defendants maintain that the only agreement that ever existed was to pay one-half the utilities. The rental property is located at 2097 Bowman Road, Milford, Delaware.

The defendants have an obligation to pay rent. The landlord tenant code states, "Charges for utility services made by a landlord to a tenant shall be considered rent for all purposes under this Code." 25 Del. C. § 5312(e).

The electric bills introduced into evidence show that Delaware Electric Cooperative sends the bills for the rental property at 2097 Bowman Road directly to plaintiff at P.O. Box 145 Yorklyn, Delaware. There must be some proof that the electric bills were submitted to the defendants for payment.

The landlord-tenant code states, "Any tenant who is charged and who pays for utility services separately to the landlord shall be entitled to inspect the bills and records upon which such charges were calculated, during the landlord's regular business hours at the landlord's regular business office...." 25 Del. C. § 5312(d).

Defendants argue they were not provided with the bills and they did not know where to make payment. The landlord tenant code states, "Rent shall be payable at the time and place agreed to by the parties...." 25 Del. C. § 5501(b). There has not been any testimony concerning an agreement as to time and place for payment. Defendants cannot pay a bill that is not submitted to them.

Plaintiff has not complied with the requirements of the landlord tenant code as required under 25 Del. C. § 5501(b).

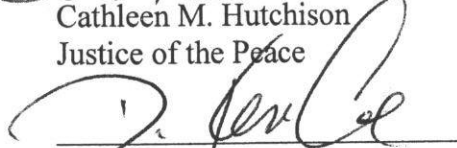
Therefore, judgment is awarded in favor of the defendants Frederick Williams and Mary Cruz and against plaintiff Meaghan S. Moran.

IT IS SO ORDERED this 26th day of January, 2010.

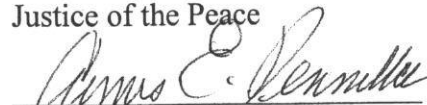
Trial De Novo Panel



Cathleen M. Hutchison
Justice of the Peace



D. Ken Cox
Justice of the Peace


Agnes E. Pennella
Justice of the Peace