

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: JP17-12-000540

WHITE HOUSE BEACH VS RAYMOND SMITH

SYSTEM ID: @270460  
WHITE HOUSE BEACH  
35266 FISHERMANS ROAD  
UNIT 2  
MILLSBORO , DELAWARE 19966

THREE JUDGE PANEL DECISION

Case Heard: April 9, 2012  
Case Decided: April 9, 2012  
Decision Mailed: April 11, 2012

Appearances: Michael Morton, Esq. appeared for the plaintiff.  
The defendant, Raymond Smith appeared *pro se*.

**ORDER**

A trial de novo before a three judge panel comprised of the Hon. Sheila Blakely, the Hon. Christopher A. Bradley and the Hon. Larry Sipple was held on April 9, 2012. Prior to the start of the trial two pretrial motions were considered.

The first was a request from the defendant for a continuance of the trial so he could retain counsel. This request was received by the Court, 5 minutes before closing on the last business day before the trial. This request was denied as untimely and also due to the time constraints mandated in 25 Del. Code, Sec. 5717(a) which require decisions of the three judge panel to be rendered in a timely manner.

The second was a motion by the plaintiff to dismiss this appeal for lack of jurisdiction, since the appeal was not filed within 5 days after judgment as required by 25 Del. Code, Sec. 5717(a). The defendant argued that he was originally served the complaint at the two addresses listed by the plaintiff on the complaint. When judgment was rendered by the Hon. William P. Wood on March 2, 2012, the Court only mailed a copy of the decision to the 25386 Crab Alley West address, and he was no longer living at that address. Defendant argued that he did not get a copy of the decision until after the 5 day appeal period had past. The defendant's appeal was not filed with the Court until March 19, 2012. The Court confirmed with Court staff that the decision was not mailed to both addresses but only to the primary address listed, which was the 25386 Crab Alley West address. Due to this confusion, the Court denied the motion and allowed this appeal to go forward.

Both parties agreed, with the consent of the Court, that the first issue to be argued was the claim for possession on the basis of nonpayment of rent. If this claim failed, then the Court would consider the second claim for possession on the grounds of a resident of the lot causing or threatening

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to cause irreparable harm.

## FACTS

The parties entered into a rental agreement on October 8, 2011 for the rental of mobile home Lot M19, located at 35513 Skipjack Lane, White House Beach, Millsboro, DE. The defendant fell behind in the payment of his lot rent and a 7 day letter was sent to the defendant on January 19, 2012 notifying him of the lot rent due and the fact that his lease would be terminated if this amount was not paid in full. A \$200 payment was made on or about January 25, 2012 and a reservation of rights letter was sent on January 26, 2012.

## ISSUES

The defendant and his witness, Randy Danielle Sherman, testified that they made several attempts to pay the rent due after they received the 7 day letter. They also testified that when the defendant purchased the mobile home from the prior owners, the Duggans, on October 8, 2011, they had a verbal agreement with the Duggans that the October rent had already been paid. The plaintiff's representative, Glenn Showell testified that at the request of the Duggans, the rent for October was prorated and the balance of the October rent paid by the Duggans was returned to them.

## DECISION

After a careful review of the evidence and testimony presented, the Court found by a preponderance of the evidence that the defendant was behind in his rent and that the rent due was not paid in full within the time allowed in the 7 day letter required under 25 Del. Code, Sec. 7010A(b)(3). Although some attempts may have been made to pay additional rent, there was no credible evidence presented that the full amount due was attempted to be paid within the required 7 day time period.

Judgment is therefore entered in favor of the plaintiff in the amount of \$1,997.86 (which includes all amounts due through April 9, 2012), accruing rent of \$17.35 per day, court costs and possession of the rental property.

The docket should be corrected to reflect that the statement "eviction satisfied" written on the writ was incorrect and should have stated that the eviction was "stayed" on March 26, 2012 with the posting of the bond, pending the outcome of the appeal or trial de novo. If a new writ is issued for the plaintiff, it should be done at no cost.

The \$1,700.00 bond which was posted by the defendant pending this appeal, should be awarded to the plaintiff and be applied to this judgment, thus reducing the amount of the judgment to \$297.86 plus court costs and accruing rent.

It is so ordered this 9th day of April, 2012.

*Sheila G. Blakely*  
Hon. Sheila G. Blakely  
for the Three Judge Panel



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SYSTEM ID: @270460  
WHITE HOUSE BEACH  
35266 FISHERMANS ROAD  
UNIT 2  
MILLSBORO, DE 19966**

**ATTORNEY FOR PLAINTIFF  
SYSTEM ID: 002492  
MICHAEL P MORTON PA.  
1203 NORTH ORANGE STREET  
WILMINGTON, DE 19801**

**Defendant Parties:**

**DEFENDANT  
SYSTEM ID: @2464058  
RAYMOND SMITH  
35513 SKIPJACK RD.  
WHITE HOUSE BEACH  
MILLSBORO, DE 19966**

**DEFENDANT  
SYSTEM ID: @2464058  
RAYMOND SMITH  
25386 CRAB ALLEY WEST  
MILLSBORO, DE 19966**

**Other Case Parties:**

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SYSTEM ID: 002492  
MICHAEL P MORTON PA.  
1203 NORTH ORANGE STREET  
WILMINGTON DE 19801

THREE JUDGE PANEL DECISION

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The first was a request from the defendant for a continuance of the trial so he could retain counsel. This request was received by the Court, 5 minutes before closing on the last business day before the trial. This request was denied as untimely and also due to the time constraints mandated in 25 Del. Code, Sec. 5717(a) which require decisions of the three judge panel to be rendered in a timely manner.

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Both parties agreed, with the consent of the Court, that the first issue to be argued was the claim for possession on the basis of nonpayment of rent. If this claim failed, then the Court would consider the second claim for possession on the grounds of a resident of the lot causing or threatening to cause irreparable harm.

## FACTS

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## ISSUES

The defendant and his witness, Randy Danielle Sherman, testified that they made several attempts to pay the rent due after they received the 7 day letter. They also testified that when the defendant purchased the mobile home from the prior owners, the Duggans, on October 8, 2011, they had a verbal agreement with the Duggans that the October rent had already been paid. The plaintiff's representative, Glenn Showell testified that at the request of the Duggans, the rent for October was prorated and the balance of the October rent paid by the Duggans was returned to them.

## DECISION

After a careful review of the evidence and testimony presented, the Court found by a preponderance of the evidence that the defendant was behind in his rent and that the rent due was not paid in full within the time allowed in the 7 day letter required under 25 Del. Code, Sec. 7010A(b)(3). Although some attempts may have been made to pay additional rent, there was no credible evidence presented that the full amount due was attempted to be paid within the required 7 day time period.

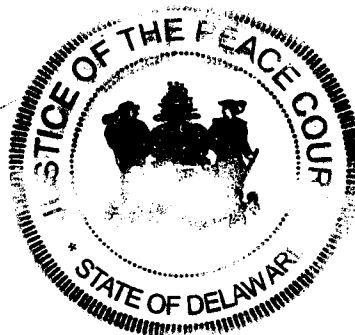
Judgment is therefore entered in favor of the plaintiff in the amount of \$1,997.86 (which includes all amounts due through April 9, 2012), accruing rent of \$17.35 per day, court costs and possession of the rental property.

The docket should be corrected to reflect that the statement "eviction satisfied" written on the writ was incorrect and should have stated that the eviction was "stayed" on March 26, 2012 with the posting of the bond, pending the outcome of the appeal or trial de novo. If a new writ is issued for the plaintiff, it should be done at no cost.

The \$1,700.00 bond which was posted by the defendant pending this appeal, should be awarded to the plaintiff and be applied to this judgment, thus reducing the amount of the judgment to \$297.86 plus court costs and accruing rent.

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*Sheila G. Blakely* By  
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## DECISION

After a careful review of the evidence and testimony presented, the Court found by a preponderance of the evidence that the defendant was behind in his rent and that the rent due was not paid in full within the time allowed in the 7 day letter required under 25 Del. Code, Sec. 7010A(b)(3). Although some attempts may have been made to pay additional rent, there was no credible evidence presented that the full amount due was attempted to be paid within the required 7 day time period.

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## DECISION

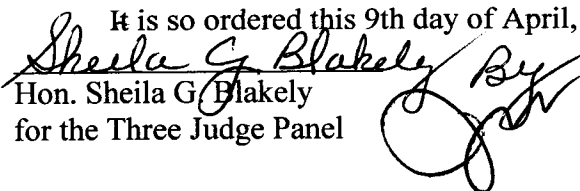
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