

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

KIM McMANUS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No.: 14A-04-001 FSS
	)	
JUSTICE OF THE PEACE	)	
COURT # 13,	)	
	)	
Defendant.	)	

**FINAL ORDER OF DISMISSAL**

1. It appears that a three Justice of the Peace appellant panel issued a writ of possession in favor of Ms. McManus's Landlord on April 14, 2014.
2. It further appears that having received the writ of possession, the Landlord served McManus with an eviction notice on April 21, 2014, requiring her to vacate by 1:25 p.m. on April 22, 2014.
3. On April 1, 2014, McManus filed a Notice of Appeal, appealing the Justice of the Peace March 27, 2014 judgment, that she withdrew. On April 2, 2014, she re-filed the praecipe and McManus characterized her pleading as a Notice of Appeal. On the Civil Case Information Sheet, she referred to the case type as

“certiorari,” which is the only reference to certiorari in her pleadings. Otherwise, they are consistently referred to as an appeal.

4. Although the court was not required to issue a written decision in less than 24 hours, a judge reviewed the matter and issued a written order on April 23, 2014, granting *in forma pauperis*, denying the emergency stay and dismissing the appeal for lack of jurisdiction. The petition for certiorari was referred to the undersigned.

5. The court’s jurisdiction to review a three Justice of the Peace panel decision is extraordinarily limited. The review may only consider errors of law.<sup>1</sup> Ms. McManus’s Notice Of Appeal provides two grounds:

1. Error in applying the doctrine of *res judicata*. I have been silenced on numerous occasions, when presenting overwhelming evidence against East Point Apartments regarding their negligence and their Retaliatory Acts, when I reported a condition in good faith and East Point Apartments had 15 days to take action. Which they did not and instead sent me a notice stating that my lease would not be renewed and lied under oath about receiving my request in writing.

2. Misrepresent amounts owed on the 5 day letter and the transaction listing which was presented in court, did not give me a

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<sup>1</sup> *Reise v. Bd. of Bldg. Appeals of City of Newark*, 746 A.2d 271, 274 (Del. 2000).

reservation of rights notice for my last 3 payments.

6. Yesterday, Ms. McManus filed a paper that might be viewed as a motion for re-argument of the April 23, 2014 order. Otherwise, it is out of order. Ms. McManus, in effect, contends the order was moot or uncalled for. She states, “I never filed a motion to stay with this court.”

7. As to her first citation of error: *res judicata*, Ms. McManus does not set out how the panel applied *res judicata*, much less how that was an error of law. Her first citation of error only recites that she has “been silenced on numerous occasions,” and her Landlord was retaliatory and dishonest.

8. As to her second citation of error, on its face it involves, at most, mistakes about the facts. To the limited extent, if any, that the court’s Corrected Order denying the stay and dismissing the appeal did not address the request for petition of certiorari, it is apparent on the face of the pleadings that certiorari is out of the question.

For the foregoing reasons, any claim that was not addressed in the April 23, 2014 order, including the petition for certiorari, is now **DISMISSED**. Petitioner has leave to re-file, provided she pays the required filing fee within ten days of this order’s date. Otherwise, there does not appear to be a basis for this matter to be

considered further at taxpayers expense, as the petition appears legally frivolous.

Further, it appears from yesterday's filing that Ms. McManus is asking court staff for legal advice, such as "What is the Proper Procedure with (Court of) Superior Court if relief of stay was requested?" The Prothonotary **SHALL NOT** answer a litigant's question, besides providing information about fees and where, physically, papers may be filed. If Ms. McManus persists, becomes disruptive, or appears to loiter, the Prothonotary **SHALL** request the police to escort Ms. McManus from the courthouse: then she may then communicate with the court through the post office.

**IT IS SO ORDERED.**

Date: April 30, 2014

/s/ Fred S. Silverman  
Judge

cc: Prothonotary (Civil)  
Kim McManus, Plaintiff