

IN THE JUSTICE OF THE PEACE COURT 16 OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

DELAWARE STATE HOUSING AUTH.,)	)
Plaintiff/Appellee Below)	)
v.)	) JP16-13-003343
PAUL SMITH)	)
Defendant/Appellant Below)	)

Submitted: August 23, 2013
Decided: August 23, 2013

Jeffrey J Clark, Esq. Attorney for the Plaintiff/Appellee.

Paul Smith appeared *Pro Se*.

This is a trial *de novo* before a 3 Judge Panel to hear an appeal,¹ timely filed, of a judgment entered for the plaintiff on July 23, 2013 in a landlord/tenant summary possession case. The Panel consists of the Honorable Judges Robert Wall, Ernst Arndt, and William Sweet.

Pre-trial, Defendant moved for a second continuance based on health issues and to obtain legal counsel as he claimed to not understand the Court process. Plaintiff objects. MOTION IS DENIED. Defendant has had ample time to obtain counsel and supplied no supporting documentation regarding any health issues that would preclude his performance in Court. Defendant also moved plaintiff's attorney recuse himself because of a conflict of interest. Plaintiff represented Defendant in 2011 and subsequently withdrew as Defendant's counsel after a conflict between the parties. A subsequent complaint to the Delaware Bar was resolved in favor of Plaintiff's attorney. Plaintiff objects. MOTION IS DENIED. Defendant was unable to demonstrate any conflict of interest between Plaintiff's attorney and Defendant.

At trial, plaintiff entered into evidence a certified copy of Defendant's conviction² on May 24, 2013 for Terroristic Threatening, a Class A misdemeanor violating 11 Del. C. §621 and Disorderly Conduct, an Unclassified Misdemeanor violating 11 Del. C. §1301. Testimony supported conduct by the Defendant constituted threatening an employee of a local utility over a dispute of the amount of a bill and warranted the arrest and conviction.

¹ 25 Del. C. §5717(a)

² Plaintiff's Exhibit 1

Plaintiff entered a lease agreement³ between the Parties executed September 14 2012. Defendant was properly noticed⁴ of Plaintiff's termination of the lease for violation of 25 Del. C. §5513(b).⁵ Plaintiff entered additional evidence and testimony regarding abandonment of the rental unit violating paragraph 10(a) of the lease and non-payment of utility bills violating paragraphs 2(d) and 8(d) of the lease. The Court finds the conviction of the Class A Misdemeanor sufficient alone to warrant termination of the lease.

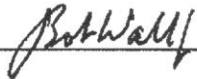
Defendant's testimony contends the absence of greater than 30 days was the result of an error by the Department of Corrections but by his own admission, he refused an offer to have bail posted which would have precluded the greater than 30 day absence.

The Plaintiff has prevailed by a preponderance of the evidence. Possession is awarded to the Plaintiff.

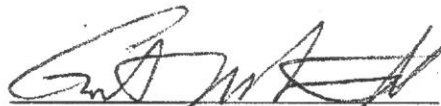
Decision and the non-availability of an appeal were announced in open court.

IT IS SO ORDERED

August 23, 2013



The Hon. Robert Wall



The Hon. Ernst Arndt



The Hon. William Sweet

³ Plaintiff's Exhibit 2

⁴ Plaintiff's Exhibit 4

⁵ "When a breach by a tenant causes or threatens to cause irreparable harm to any person or property, or the tenant is convicted of a class A misdemeanor or felony during the term of the tenancy which caused or threatened to cause irreparable harm to any person or property, the landlord may, without notice, remedy the breach and bill the tenant as provided in subsection (a) of this section; immediately terminate the rental agreement upon notice to the tenant and bring an action for summary possession; or do both."