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

DOVER PARK LLC, : C.A. No. JP16-12-002577

:

Plaintiff Below, : Appellant, :

.

v. :

KHALILAH W. HANZER,

:

Defendant Below, : Appellee. :

TRIAL DE NOVO

Submitted: August 9, 2012 Decided: August 9, 2012

Dover Park LLC, Plaintiff/Appellant, appeared represented by current Form 50 agent Wilda Rivera.

Khalilah W. Hanzer, Defendant/Appellee, pro se.

ORDER

Arndt, J Murray, J Darling, J On August 9, 2012, this Court, comprised of the Honorable Ernst M Arndt, the Honorable James A. Murray and the Honorable Pamela A. Darling, acting as a special court pursuant to 25 *Del. C.* § 5717(a)¹ convened a trial *de novo*² in reference to a Landlord/Tenant Summary Possession petition filed by Dover Park LLC (hereinafter referred to as Plaintiff), against Khalilah W. Hanzer (hereinafter referred to as Defendant). For the following reasons the Court enters *Judgment* in favor of the **Defendant**.

Factual and Procedural Background

Plaintiff filed a Landlord/Tenant Summary Possession petition with Justice of the Peace Court No. 16 seeking possession, court cost, and accrued rent. This action is based on the Defendant's failure to pay rent. At trial judgment was entered in favor of the Defendant.³ Thereafter, the Plaintiff filed a timely appeal of the Court's Order pursuant to 25 *Del. C.* § 5717(a). Trial *de novo* was thereafter scheduled.

Plaintiff's Testimony

Plaintiff called herself as her only witness when presenting her case-in-chief.

She testified that the Defendant owes rent for the months of June and July 2012

¹ 25 Del. C. § 5717(a). Nonjury trials. With regard to nonjury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial de novo before a special court comprised of 3 justices of the peace other than the justice of the peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgment, by majority vote....

² De novo trial. Trying a matter anew; the same as if it had not been heard before and as if no decision had been previously rendered. Black's Law Dictionary, 6th Edition, West Publishing Co. (1990).

³ Dover Park LLC v Hanzer, Del. J.P., C.A. No. JP16-12-002577, Wall, J. (July 18, 2012).

stating; "We have every money order you have provided. We do not have payment for June and July."

Discussion

Upon Plaintiff resting her case⁴, she failed to provide any tangible evidence including a seven day demand letter, proof of mailing or account statement to support her testimony. There was no testimony as to a specific amount owed Plaintiff. Plaintiff also failed to provide a copy of the lease to show a landlord/tenant relationship exists between the parties. Plaintiff failed to establish a prima facie case.⁵

Conclusion

Based on the Court's fact finding inquiry, the Court's above-referenced conclusions of law and by a preponderance of evidence, the Court by unanimous vote enters *JUDGMENT* in favor of the Defendant. Plaintiff failed to prove a *prima fasie* case.

IT IS SO ORDERED this 9th day of August, 2012.

ludge Ernst M. Arndt

Judge Pamela A. Darling

⁴ The Court inquired repeatedly if Plaintiff had any further testimony or evidence before resting her case.

⁵ Blacks Law Dictionary, 6th Edition West Publishing Co. (1991) **Prima Facie Case**. A prima facie case consists of sufficient evidence in the type of case to get plaintiff past a motion for directed verdict in a jury case or motion to dismiss in a nonjury case; it is the evidence necessary to require defendant to proceed with his case.