



STATE OF DELAWARE
JUSTICE OF THE PEACE COURT NO. 13
1010 CONCORD AVENUE
CONCORD PROFESSIONAL CENTER
WILMINGTON, DELAWARE 19802

TELEPHONE: (302) 577-2550

SYSTEM ID: @2961282
JOHN V. HAWKINS
700 HERTFORD ROAD
WILMINGTON DE 19803

VS.

Civil Action No.: JP13-17-005107

SYSTEM ID: @2961283 / @2961284 / @2961285 / @2961286
DUANE BASS / WILL ROY / RUSSELL BASS / DOROTHEA MCMILLAN
160 CHRISTIANA ROAD
NEW CASTLE DE 19720

Appearances:

Plaintiff John V. Hawkins, appeared by and through John J. Conly, Esq.
Defendant Duane Bass appeared *pro se*
Defendant Will Roy failed to appear
Defendant Russell Bass failed to appear
Defendant Dorothea McMillan failed to appear

Before: Lee, D.C.M.; Bawa, J.; Freel, J.

Heard: August 2, 2017
Decided: August 31, 2017

**ORDER OF JUDGMENT
ON TRIAL DE NOVO**

August 2, 2017. Plaintiff John V. Hawkins appeared represented by John J. Conly, Esq. Defendant Duane Bass appeared *pro se*. The matter presently before the Panel is an Appeal of an Order entered June 20, 2017 in a summary possession action brought by Plaintiff against Defendants. On June 26, 2017, Defendant/Appellant Duane Bass filed a timely appeal of the Judgment. Deputy Chief Magistrate Bonita Lee, Judge Beatrice Freel, and Judge Nina Bawa constituted the Panel on appeal. This is the Panel's decision.

At time of the appeal trial, possession of the unit is no longer an issue, as the eviction was completed on July 21, 2017. Trial proceeded as to the debt only.

VIEW YOUR CASE ONLINE: <http://courtconnect.courts.delaware.gov>

Plaintiff seeks \$4830.00 total, which is comprised of rent from February 2017 in the amount of \$600.00, plus \$900.00 per month from March 2017 through July 21, 2017. Plaintiff asserts that while Defendant provided the lawn and landscaping maintenance, the other tenants provided other maintenance and repair tasks and that is why the rent deduction was applied to the total rent instead of just Defendant Duane Bass' portion of the rent. Plaintiff submits into evidence the rental agreement, which specifies that the monthly rent is \$1100.00 for the unit, minus the \$200.00 deduction for maintenance.

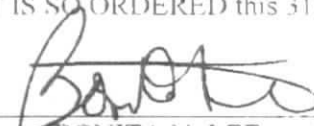
Defendant asserts a counterclaim for \$5031.00 plus the return of an antique steel spoke wheelbarrow. Defendant also seeks for his two vehicles to be placed in protective custody until Defendant is able to get a new key for the vehicle. Defendant argues there was a problem with mice in the unit. Defendant argues he provided maintenance of the lawn and landscaping to Plaintiff and was never paid by Plaintiff for these services. Defendant asserts that he rented the unit with three other tenants, and Plaintiff improperly applied his rent deduction for conducting maintenance to the rent for all tenants instead of just his portion of the rent.

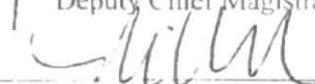
After careful consideration of the testimony and evidence presented, the Panel finds that the Plaintiff met the burden of proof on the case-in-chief. The Court awards \$4830.00 to Plaintiff for the overdue rent.

On the counterclaim, the Court finds that Defendant failed to meet the burden of proof on the counterclaim. Defendant's testimony as to his counterclaim lacked specificity. In addition, there was insufficient evidence to corroborate Defendant's testimony regarding the maintenance tasks completed by Defendant and the problems with the unit.

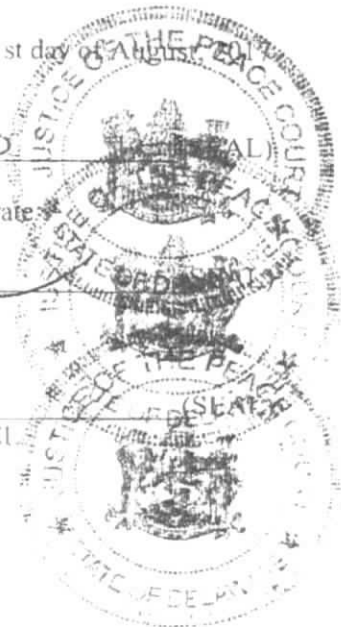
The Panel finds, by a preponderance of the evidence, in favor of Plaintiff John V. Hawkins against Defendant Duane Bass. A judgment is awarded in favor of Plaintiff John V. Hawkins against Defendant Duane Bass in the amount of \$4830.00 plus \$80.00 court costs plus post-judgment interest at the rate of 6.75% per annum. This order does not impact the judgment below as to any other Defendant.

IT IS SO ORDERED this 31st day of August, 2017.


BONITA N. LEE
Deputy Chief Magistrate


NINA M. BAWA
Justice of the Peace


BEATRICE A. FREEL
Justice of the Peace



VIEW YOUR CASE ONLINE: <http://courtconnect.courts.delaware.gov>