

IN THE JUSTICE OF THE PEACE COURT OF
THE STATE OF DELAWARE, IN AND FOR NEW CASTLE COUNTY
COURT NO. 13

JEFFREY HODGE	§	
Plaintiff Below,	§	
Appellant	§	
	§	
VS	§	C.A. No. JP13-18-000435
	§	
	§	
D. MARTIN MELLINGER	§	
Defendant Below,	§	
Appellee	§	

TRIAL DE NOVO

Submitted: April 11, 2018

Decided: April 19, 2018

APPEARANCES:

JEFFREY HODGE, Plaintiff appeared by and through John Stant, Esq.
D. MARTIN MELLINGER, Defendant appeared pro se.

Sean P. McCormick, Deputy Chief Magistrate
Beatrice A. Freel, Justice of the Peace
Nina M. Bawa, Justice of the Peace

IN THE JUSTICE OF THE PEACE COURT OF
THE STATE OF DELAWARE, IN AND FOR NEW CASTLE COUNTY
COURT NO. 13

CIVIL ACTION NO: JP13-18-000435

JEFFREY HODGE VS D. MARTIN MELLINGER

ORDER ON TRIAL DE NOVO

This date the panel went forward in the above-referenced matter. Plaintiff's claim, seeking damages pursuant to 25 Del. C. §5308(b)(2) to reimburse Plaintiff for expenses incurred presupposes that the Landlord Tenant Code is applicable. In this matter, the panel held that it was not so. At no point in time was there a meeting of the minds in which consideration was agreed upon. That is, the basis of a rental contract. Rather, Plaintiff simply remained in a foreclosed property that was purchased at a Sherriff's sale by Defendant. Defendant's willingness to allow Plaintiff to stay for a further period of time (presumably an act of kindness) does not in and of itself create a rental agreement. Without one, 25 Del. C. § 5101, which establishes applicability of the Landlord Tenant Code. is inapplicable. Accordingly, the matter is dismissed for lack of jurisdiction.

IT IS SO ORDERED 19th day of April, 2018

SEAN P. MCCORMICK
Deputy Chief Magistrate

NINA M. BAWA
Justice of the Peace

BEATRICE A. FREEL
Justice of the Peace



Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).

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

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IN THE JUSTICE OF THE PEACE COURT OF
THE STATE OF DELAWARE, IN AND FOR NEW CASTLE COUNTY
COURT NO. 13

COURT ADDRESS:
1010 CONCORD AVE
WILMINGTON DE 19802

CIVIL ACTION NO:
JP13-18-000435

JEFFREY HODGE, PLAINTIFF
VS
D. MARTIN MELLINGER, DEFENDANT

Plaintiff Parties:
ATTORNEY FOR PLAINTIFF
SYSTEM ID: 005806
JOHN D STANT II.
LEGAL SERVICES CORPORATION OF
100 WEST 10TH STREET
SUITE 203
WILMINGTON, DE 198010000

Defendant Parties:
DEFENDANT
SYSTEM ID: @3038148
D. MARTIN MELLINGER
680 BENGE ROAD
HOCKESSIN, DE 19707

PLAINTIFF
SYSTEM ID: @3038147
JEFFREY HODGE
CONFIDENTIAL ADDRESS

Other Case Parties:

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

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Form: CF143J (Rev 5/19/17)

**JUSTICE OF THE PEACE COURT
CIVIL POST- JUDGMENT PROCEDURES
THREE JUDGE PANEL**

[This information is not legal advice and not a substitute for seeking legal advice from an attorney. This information is not binding on the court if incorrect or misunderstood. It relates to frequently asked questions concerning post-judgment procedures but does not address all of the possible procedures and may not apply in your particular case. Forms for these procedures may be obtained from any Justice of the Peace Court civil location. All motions must include the name of the court, the names of the parties, the case number, the date the motion is filed with the Justice of the Peace Court and a title indicating the reason for the motion. Court costs or fees must accompany the motion, unless the person has requested, and the court determined, that the person may proceed in forma pauperis (without paying costs or fees or posting bond because they have no money to pay).]

All payments should be made directly to the prevailing party. The Court does not accept payment on judgments.

Pursuant to 10 Del. C. § 9567(b), prevailing parties are reminded of their duty to file a satisfaction of the judgment within 90 days of payment in full.

FAILURE OF A PARTY TO APPEAR FOR THE PANEL TRIAL

As provided by Justice of the Peace Civil Rule 72.1(f), if the Appellant (the party who requested the appeal trial) or both parties fail to appear for the trial, the judgment of the court below shall stand unless the Appellee appears and has filed a counterclaim.

If the Appellee (the party against whom the appeal was taken) fails to appear and a DEFAULT JUDGMENT is entered, that party may file a Motion To Vacate the judgment pursuant to Justice of the Peace Civil Rule 60. The Motion must show; (1) the Appellee's failure to appear was the result of actions of a reasonably prudent person; and (2) the outcome would be different if the trial were held; and (3) the party that appeared would not be prejudiced by having the trial. The Motion must be filed within 10 days, starting the day after the judgment was signed by the De Novo Panel. **A FEE OF \$15.00 MUST ACCOMPANY THIS MOTION.**

MOTION FOR A NEW TRIAL

Either party has 10 days, starting the day after the judgment was signed by a Judge, to file a Motion For A New Trial as provided under Justice of the Peace Court Civil Rule 59. This Motion shall be in writing and shall briefly and succinctly state the reasons for the request. A Motion For A New Trial will be heard by the Panel of Judges who originally heard the case. The reasons for which a new trial may be granted are limited. For example, the reason given for requesting a new trial may be newly discovered evidence. However, for the Panel to grant a motion for a new trial based upon newly discovered evidence, the party requesting the new trial must show all of the following: (1) the newly discovered evidence is important enough to change the result in the case; (2) the evidence could not have been discovered prior to the original trial with reasonable investigation; and (3) the evidence does not merely repeat or dispute evidence presented in the original trial. **A FEE OF \$15.00 MUST ACCOMPANY THIS MOTION.**