

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

ROLLIE RICHARDSON  
DELORES RICHARDSON  
Plaintiff Below,  
Appellee

VS

MR..ANTONIO STILL  
MS..JORDAN MILTON  
Defendant Below,  
Appellant

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C.A. No. JP13-18-000171

TRIAL DE NOVO

Submitted: May 9, 2018  
Decided: May 16, 2018

**APPEARANCES:**

ROLLIE RICHARDSON, Plaintiff appeared by and through George E. Evans, Esq  
DELORES RICHARDSON, Plaintiff appeared by and through George E. Evans, Esq  
MR..ANTONIO STILL, Defendant appeared pro se  
MS..JORDAN MILTON, Defendant appeared pro se

Sean P. McCormick, Deputy Chief Magistrate  
Marie E. Page, Justice of the Peace  
Christopher R. Portante, Justice of the Peace

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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

CIVIL ACTION NO: JP13-18-000171

ROLLIE RICHARDSON ET AL VS ANTONIO STILL ET AL

ORDER ON TRIAL DE NOVO

On Wednesday, May 9, 2018 after some preliminary matters<sup>1</sup>, the Court went forth in an appellate hearing in the above-referenced matter. The Plaintiffs, care of Mr. George Evans, Esq., sought \$5,086.00 – which consisted of late fees for the months of October and November 2017 at \$30.00 per month; rent at the rate of \$920.00 per month and related late fees for the months of December 2017 through April 2018; per diem rent at the rate of \$30.67 for the month of May, 2018, and possession of the unit in question. In support of that claim, the Plaintiff evidenced through the testimony of Mr. and Ms. Richardson all of the allied documentation (including the lease establishing the rental obligation, a 5-day letter of demand sufficient for its purpose, and proof of mailing of same) necessary to establish the rental debt.

In response to Plaintiff's claim, the Defendants sought unspecified rent abatement pursuant to 25 *Del. Code* § 5308, claiming the Plaintiffs breached their warranty of habitability owed the Defendants due to the condition of the unit. Through their testimony and a showing of photographic and video evidence, the Defendants established that they experienced mice, insufficient heat (which in turn engendered high electric bills when the Defendants attempted to supplement the heating system with electric space heaters), and a leaky roof, amongst other things. The Defendants contended that, due to the lack of heat, they were at times only able to use a portion of the living space, as the rest was simply too cold to remain in. In their defense, the Plaintiff's contended that they were either unaware of the issues or addressed them appropriately when they were made aware of them.

The issue upon which this matter turned was that of notice. The Plaintiff's claim they were not aware of any issues with the heating system until late in March, 2017 (at which time a technician inspected the system and found no faults.) Defendants contend it was as early as October, 2017. The tenants advised that, although a technician looked over the heating system, it still did not work properly. They claimed that they paid their rent late in October and November as a form of protest for non-performance by the landlords. They stopped paying entirely in December. The evidence before the panel indicated that the Plaintiff did not comply with the duty imposed upon them pursuant to 25 *Del. Code* § 5118 to provide the tenants with a summary of the landlord-tenant code. Accordingly, the tenants were relieved of any duty to notice the landlord as to issues according to the code. The question then became, when if ever did the tenants make the landlords aware of these issues?

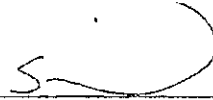
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<sup>1</sup> Plaintiff's counsel noted that only Mr. Still had signed the request for appeal or the application to proceed *in forma pauperis*. Accordingly, Mr. Evans moved that the appeal only reflect the one party and not both. Mr. Still and Ms. Milton, who were both present, advised the panel that it was their joint intent to exercise a right of appeal, however, one of the two was at work at the time of filing. Pursuant to Justice of the Peace Civil Rule 19(a){1} the panel joined Ms. Milton as a necessary party to the action.

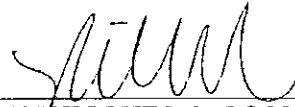
To this end, the Defendants supplied a video taken by Mr. Still's cell phone. The video recorded a phone conversation between Mr. Still and Mr. Richardson. In the video, Mr. Richardson is heard remarking that the defendants paid last month's rent late, and this month's not at all (or words to that effect.) In response, Mr. Still asked Mr. Richardson to repair the heat. Mr. Richardson's response, in so many words, was "pay the rent and then I will fix the heat!" Although there was no date-stamp on the video, based upon the statement that "you paid last month late, and this month not at all" the panel deduced that the conversation must have occurred in December, since rent for the month of December went unpaid. In addition to helping the panel pick a date upon which rent abatement could be considered, the video served the purpose of discrediting Mr. Richardson's testimony regarding being aware of issues with the tenancy generally. In that the tenants went without adequate heat from at least December through late March (and ongoing, according to the tenants) abatement pursuant to 25 *Del. Code* § 5308 should be granted. Rent is hereby abated by two-thirds from December 1, 2017 to date and ongoing in so far as per diem rent continues to accrue.

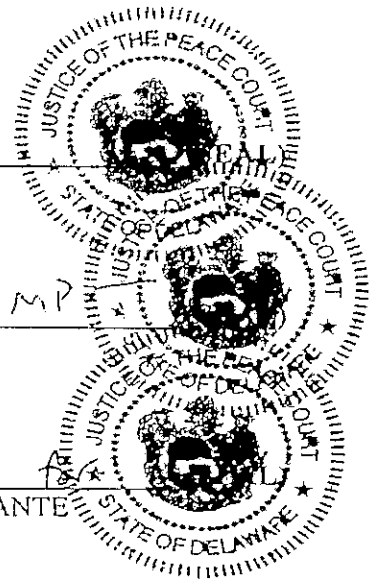
Judgment was therefore as follows: By a preponderance of the evidence, the panel found for the Plaintiffs in their claim, awarding them the amount of \$5,086.00 plus the costs of filing, Post-Judgment Interest on the debt; per diem rent ongoing and possession of the unit. On the counter-claim, the panel found that the tenants were substantially deprived of the benefit of the bargain such that rent should be abated by two-thirds pursuant to statute. After subtracting the abated amount, the Net Judgment is for the Richardsons, totaling \$1,625.30 plus \$40.00 costs of filing, Interest on the debt at 7.25% per annum, and per diem rent that continues to accrue in the amount of \$10.22.

IT IS SO ORDERED 16th day of May, 2018

  
SEAN P. MCCORMICK  
Deputy Chief Magistrate

  
(for) MARIE E. PAGE  
Justice of the Peace

  
CHRISTOPHER R. PORTANTE  
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).

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:  
JP13-18-000171

DELORES RICHARDSON, ROLLIE RICHARDSON, PLAINTIFF

VS

MR. ANTONIO STILL, MS. JORDAN MILTON, DEFENDANT

Plaintiff Parties:

ATTORNEY FOR PLAINTIFF  
SYSTEM ID: 000749  
GEORGE E EVANS  
GEORGE E. EVANS, ATTORNEY AT L  
913 N. MARKET STREET  
SUITE 902  
WILMINGTON, DE 19801

PLAINTIFF  
SYSTEM ID: @1226688  
ROLLIE RICHARDSON  
29 W 35TH ST  
WILMINGTON, DE 19802

PLAINTIFF  
SYSTEM ID: @1226690  
DELORES RICHARDSON  
29 W 35TH ST  
WILMINGTON, DE 19802

Defendant Parties:

DEFENDANT  
SYSTEM ID: @3036927  
MR.. ANTONIO STILL  
101 W 35TH ST #C  
WILMINGTON, DE 19802

DEFENDANT  
SYSTEM ID: @3036932  
MS.. JORDAN MILTON  
101 W 35TH ST #C  
WILMINGTON, DE 19802

Other Case Parties:

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

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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.**