

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

BRITTANY MARTIN
Plaintiff Below,
Appellant

VS

LOU CHANDLER
Defendant Below,
Appellee

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C.A. No. JP13-18-001673

TRIAL DE NOVO

Submitted: May 30, 2018

Decided: June 8, 2018

APPEARANCES:

Plaintiff Brittany Martin is represented by Megan Mahle, Esq.
Defendant Lou Chandler fails to appear

Nina M. Bawa, Justice of the Peace
Beatrice A. Freel, Justice of the Peace
Amanda Moyer, Justice of the Peace

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

CIVIL ACTION NO: JP13-18-001673

BRITTANY MARTIN V LOU CHANDLER

ORDER ON TRIAL DE NOVO

This matter comes before a three-judge panel as an appeal of a summary possession case pursuant to 25 Del. C. 5717. The case was originally heard before a single Judge (Ufberg, J.) on March 12, 2018. On March 16, 2018, a default judgment was entered against Defendant Chandler in favor of Plaintiff Martin for a two-thirds rent abatement. Plaintiff Brittany Martin filed a timely appeal from that judgment.

At the time of the *de novo* hearing Plaintiff seeks a default judgment for rent abatement and damages totaling \$10,823.62 and post-judgment interest. Plaintiff asserts that she had no heat in her rental unit, and Defendant signed a written notice from Plaintiff on November 9, 2017 regarding the problem with the heat plus six other items in the rental unit needing repair. On January 11, 2018, the City of Wilmington declared the unit unfit for habitation due to lack of heat, faulty plumbing and faulty electrical wiring. Plaintiff seeks two-thirds per diem rent abatement of \$310.80 from November 11-November 30, 2017, \$466.62 for December 2017, and \$165.57 from January 1 – January 11, 2018. Plaintiff seeks a full rent abatement from January 12, 2018 through May 30, 2018. Plaintiff also seeks \$51.97 reimbursement for purchasing a portable heater, \$450.00 for excess cost of substitute housing from April 19, 2018 through May 30, 2018 (six weeks at \$75.00 per week), and treble per diem rent from January 17, 2018 through May 30, 2018 totaling \$9378.66.

The panel awards a default judgment for rent abatement and damages pursuant to 25 Del.C. § 5308(a), 25 Del.C. § 5308(b), and 25 Del.C. § 5313.

However, the panel held that 25 Del.C. § 5313 specifies that the tenant may recover either treble substitute housing or treble per diem, whichever is greater and therefore does not award both substitute housing and treble per diem. The Court disallows the \$450.00 for excess substitute housing.

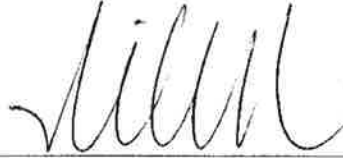
“The tenant may also recover treble the damages sustained or an amount equal to 3 times the per diem rent for the period of time the tenant was excluded from the unit. whichever is greater...” pursuant to 25 Del.C. §5313.

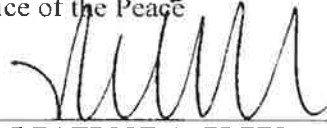
Plaintiff will surrender possession of the rental unit by giving written notice to Defendant.

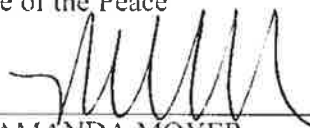
The Court awards a two-thirds abatement of \$942.00, full abatement of \$9378.66 and \$51.97 reimbursement totaling \$10,373.62 plus 7.25% post-judgment interest per annum.

Default judgment is entered in favor of Plaintiff Brittany Martin against Defendant Lou Chandler in the amount of \$10,373.62 plus 7.25% post-judgment interest per annum.

IT IS SO ORDERED 08th day of June, 2018


NINA M. BAWA
Justice of the Peace


(for) BEATRICE A. FREEL
Justice of the Peace


(for) AMANDA MOYER
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).

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IN AND FOR NEW CASTLE COUNTY
COURT NO. 13**

COURT ADDRESS:
1010 CONCORD AVE
WILMINGTON DE 19802

CIVIL ACTION NO:
JP13-18-001673

BRITTANY MARTIN V LOU CHANDLER

Plaintiff Parties:

ATTORNEY FOR PLAINTIFF
SYSTEM ID: 004348
MEGAN M MAHLE
COMMUNITY LEGAL AID SOCIETY, I
100 WEST 10TH STREET
SUITE 801
WILMINGTON, DE 198010000

ATTORNEY FOR PLAINTIFF
SYSTEM ID: 004348
MEGAN M MAHLE
2616 W. 16TH STREET
WILMINGTON, DE 19806

PLAINTIFF
SYSTEM ID: @3051550
BRITTANY MARTIN
107 W. 24TH STREET
WILMINGTON, DE 19802

Defendant Parties:

DEFENDANT
SYSTEM ID: @3051551
LOU CHANDLER
1131 E. 22ND STREET
WILMINGTON, DE 19802

Other Case Parties:

**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.**