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

GATEWAY HOUSE INC	§	
Plaintiff Below,	§	
	§	
	§	
VS	§	C.A. No. JP13-19-005872
	§	
	§	
RONALD JONES	§	
Defendant Below,	§	

TRIAL DE NOVO

Submitted: July 11, 2019 Decided: July 26, 2019

APPEARANCES:

Gateway House Inc., Plaintiff, appeared by and through Form 50 agent, Linda Stillis Ronald Jones, Defendant, appeared by and through Gilberte Pierre, Esq.

Sean P. McCormick, Deputy Chief Magistrate Thomas P. Brown, Justice of the Peace Amanda D. 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: JP13-19-005872

GATEWAY HOUSE INC VS RONALD JONES

ORDER ON TRIAL DE NOVO

The Court has entered a judgment or order in the following form:

Procedural Posture

The Plaintiff, landlord Gateway House Inc.(Gateway), represented by Linda Stillis, pursuant to Supreme Court Rule 57, filed Civil Action No. JP13-19-005872, on May 16, 2019, in Justice of the Peace Court 13. Gateway sought delinquent rent payments and possession from the Defendant; tenant Ronald Jones (Jones). Jones filed a counterclaim seeking triple damages of rent, \$554, claiming this was a retaliatory action by Gateway.

The trial, before a single Justice of the Peace, on June 25, 2019, resulted in a Court order in favor of Gateway and against Jones for \$0, and possession was awarded to Gateway. Jones filed an appeal for a trial de novo (TDN) on July 1, 2019. The appeal was approved on July 1.

A TDN was scheduled for July 11, 2019, before a three-judge panel, consisting of Deputy Chief Magistrate Sean P. McCormick, Justice of the Peace Thomas P. Brown, and Justice of the Peace Amanda Moyer. Gateway appeared, represented by Linda Stillis, pursuant to Supreme Court Rule 57. Jones appeared, represented by Gilberte Pierre, Esq.

Facts

Jones makes a pre-trial motion to dismiss the case citing the complaint as deficient, non-compliant with 25 <u>Del. C.</u> §5707 (4). Jones asserts that in the complaint non-payment of rent is referenced; however, the attached 60-day notice does not support a non-payment of rent claim. Gateway has no response to Jones' motion. The Court denies Jones' motion in part, the action cannot move forward on the non-payment of rent but the 60-day notice may be viable.

Gateway is seeking possession of Jones' rental unit. Gateway submits the Sixty (60) Day Non-Renewal Notice sent to the Jones February 27, 2019, to support their claim. Stillis testifies that the non-renewal notice was sent to Jones via Certificate of Mailing. Stillis also asserts that Jones had a month to month lease with Gateway, which would expire May 1, 2019 pursuant to the 60-day notice. On cross-examination, Stillis acknowledges the existence of a lease between the parties and answers in the affirmative that Gateway is subsidized housing. Stillis further confirms that she is familiar with the subsidized housing rules regarding lease termination. Stillis acknowledges that no reason for the termination is listed on Jones' letter, and asserts that it was not necessary in Jones' situation. Gateway rests their case.

Jones renews the motion to dismiss the case, citing the testimony that rent is subsidized by WHA, pursuant to HUD rules the cause for lease termination must be shown. No cause for termination was shown by Gateway, no copy of the lease agreement, or affiliated agreement with WHA, between the parties was presented. In response to the motion, Gateway states they have a letter dated January 22, 2017 terminating Jones's participation with Section 8. Jones objects to the presentation of the letter, as Gateway had already rested their case. The Court overrules Jones' objection as the letter was offered in rebuttal to Jones' motion. After reviewing

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the letter, Jones continues with the motion to dismiss citing the failure by Gateway to present a lease between the parties, or any evidence to show the subsidy changed and, as such, so had the rules regarding termination of the lease. Gateway offers no further response to Jones' motion to dismiss.

Discussion

Landlord-Tenant relationships are governed by Delaware's Landlord-Tenant Code, found in Title 25, Chapters 51 through 70. A landlord seeking possession of the rental unit may file under §5702. If the reason is for failure vacate the unit after expiration of the rental agreement, a landlord may file under 25 <u>Del. C.</u> §5702(1): The tenant unlawfully continues in possession of any part of the premises after the expiration of the rental agreement without the permission of the landlord or, where a new tenant is entitled to possession, without the permission of the new tenant;

A landlord may terminate a rental agreement under 25 Del. C. §5106:

- (c) The landlord may terminate any rental agreement, other than month-to-month agreements, by giving a minimum of 60 days' written notice to the tenant prior to the expiration of the term of the rental agreement. The notice shall indicate that the agreement shall terminate upon its expiration date. A tenant may terminate a rental agreement by giving a minimum of 60 days' written notice prior to the expiration of the term of the rental agreement that the agreement shall terminate upon its expiration date.
- (d) Where the term of the rental agreement is month-to-month, the landlord or tenant may terminate the rental agreement by giving the other party a minimum of 60 days' written notice, which 60-day period shall begin on the first day of the month following the day of actual notice.
- (e) With regard to a tenant occupying a federally-subsidized housing unit, in the event of any conflict between the terms of this Code and the terms of any federal law, regulations or guidelines, the terms of the federal law, regulations or guidelines shall control.

Gateway submitted to the Court a Sixty-Day letter, as evidence that Jones was given proper notification of the termination of his tenancy. The lease is a contract between Gateway and Jones, and without it, a sufficient foundation has not been laid to show the Sixty-Day notice contained the required information or complied with the pertinent subsection of 25 <u>Del. C.</u> §5106. Based on the testimony and evidence presented, the Court cannot speculate as to what set of rules, HUD or otherwise; nor which subsection of 25 <u>Del. C.</u> §5106 apply to this case. Also troubling for the Court is Gateway's lack of a response to Jones' arguments and assertions.

Conclusion

For the foregoing reasons, the Court GRANTS Jones' motion and the case is DISMISSED WITH PREJUDICE.

IT IS SO ORDERED 26th day of July, 2019

/s/ Sean P. McCormick (SEAL)

Deputy Chief Magistrate,
On behalf of the 3-Judge Panel

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).