

**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

KEITH MOODY
Defendant Below,

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C.A. No. JP13-19-005873

TRIAL DE NOVO

Submitted: July 31, 2019

Decided: August 2, 2019

APPEARANCES:

Plaintiff, represented by Basil Kollias, Esq.
Defendant, *Pro Se*

Sean McCormick, Deputy Chief Magistrate
Peter Burcat, Justice of the Peace
Thomas Brown, Justice of the Peace

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
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COURT NO. 13**

CIVIL ACTION NO: JP13-19-005873

GATEWAY HOUSE INC VS KEITH MOODY

ORDER ON TRIAL DE NOVO

The Court has entered an Order in the following form:

Procedural Background

On May 16, 2019 Plaintiff, Landlord GATEWAY HOUSE INC. ("Gateway House"), represented at the *Trial de Novo* by Basil Kollias, Esq., filed Civil Action No. JP13-19-005873 in Justice of the Peace Court 13. Gateway House sought possession of a bedroom/apartment occupied by Defendant KEITH MOODY ("Mr. Moody"), based upon alleged rules violations, and pursuant to a 60-Day Notice served on Mr. Moody.

A trial, before a single Judge, was conducted below on June 25, 2019. On June 28, 2019, an Order was signed finding in favor of Plaintiff GATEWAY HOUSE, and Ordering possession to be returned to Plaintiff. On July 3, 2019, Mr. Moody filed an appeal for a *Trial de Novo* ("TDN"). On July 5, 2019, the request for a TDN was granted.

On July 12, 2019, the Court scheduled a TDN for July 31, 2019, before a three-judge panel consisting of Deputy Chief Magistrate Sean McCormick, Justice of the Peace Peter Burcat, and Justice of the Peace Thomas Brown. On July 31, 2019, Plaintiff/Appellee GATEWAY HOUSE appeared, represented by Basil Kollias, Esq., and Defendant/Appellant MOODY appeared *Pro Se*.

Facts

Plaintiff/Appellee is the landlord of a residential facility located at 121 N. Poplar Street, Wilmington, Delaware 19801. Plaintiff offered to rent a bedroom/apartment to Defendant/Appellant. The Parties entered into a subsidized Lease Agreement, dated January 25, 2017, for the rental property. The term of the Lease was January 25, 2017 through January 31, 2018. The Lease Agreement was signed on behalf of Plaintiff/Appellee GATEWAY HOUSE, and signed by Defendant/Appellant MOODY. As part of the signed Lease Agreement, the parties to the Lease acknowledged that attached to the Lease, and made a part thereof, was the "Gateway House Participation Agreement," the "Gateway House Move-in Inspection Form," a "Delaware Summary Landlord Tenant Code," and a "Gateway House Resident's Manual." The *Gateway House Resident's Manual* included the Rules and Regulations for residents of the Gateway House.

Plaintiff/Appellee GATEWAY HOUSE has alleged that Defendant/Appellant MOODY violated on numerous occasions the specific rule against residents having guests in the bedroom/apartment. In addition, Plaintiff/Appellee GATEWAY HOUSE has alleged the Lease was not renewed on or before January 31, 2018, and therefore as of February 1, 2018, the Lease converted to a month-to-month lease. As such, for termination of the Lease Agreement, the Landlord, Plaintiff/Appellee GATEWAY HOUSE,

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could terminate the Lease Agreement with a 60-Day Notice, which Plaintiff/Appellee GATEWAY HOUSE has alleged was done in February 2019.

At the TDN on July 31, 2019, neither Party made an opening statement. Plaintiff/Appellee called Linda Stillas as their first witness. Ms. Stillas testified she was the Executive Director for GATEWAY HOUSE INC.. Ms. Stillas stated Gateway House has a mission statement that Gateway House will assist homeless men with a safe, subsidized environment. This mission is done by providing a subsidized residential facility for homeless men. In the Gateway House, two (2) to three (3) men would share a bedroom. Plaintiff/Appellee GATEWAY HOUSE had a document marked as Plaintiff/Appellee's "Exhibit P-1," identified as the Lease Agreement signed on behalf of Plaintiff/Appellee/Landlord, and Mr. Moody. P-1 was introduced into evidence without objection. Ms. Stillas testified the Lease Agreement was signed on January 25, 2017, for a lease term through January 31, 2019. Ms. Stillas was not asked about, nor proffered any testimony regarding the financial aspects of the Lease Agreement, as Plaintiff/Appellee was not seeking any monetary recovery in this matter. It was acknowledged the Lease Agreement was a subsidized agreement. Ms. Stillas testified the Lease was not renewed in 2018, and was currently a month-to-month agreement. Ms. Stillas further testified Defendant/Appellant MOODY was sent a 60-Day Notice based upon numerous violations of the Rules and Regulations, specifically for bringing females into the residence. Plaintiff/Appellee GATEWAY HOUSE had a document marked as Plaintiff/Appellee's "Exhibit P-2," identified as a copy of the Rules and Regulations. Ms. Stillas stated a copy of the Rules and Regulations was provided to all tenants when they move into the facility. Mr. Kollias asked Ms. Stillas to read into the record the rule that specifically stated "Personal visitors are not allowed in the building beyond the Front Desk Area." Ms. Stillas testified Mr. Moody violated this specific rule on numerous occasions. Plaintiff/Appellee's "Exhibit P-3," was identified as copies of Violation Notices, and a copy of the 60-Day Notice dated February 27, 2019, mailed to Defendant/Appellee MOODY. P-3 was introduced into evidence without objection. Ms. Stillas stated Mr. Moody had four (4) violations of the Rules for Gateway House. Plaintiff/Appellee Gateway House had a document marked as Plaintiff/Appellee's "Exhibit P-4," identified as the Proof of Mailing of the 60-Day Notice. P-4 was introduced into evidence without objection. The Court took Judicial Notice that the Proof of Mailing reflected a date of February 28, 2019. Mr. Kollias had no further questions for Ms. Stillas. On cross-examination, Ms. Stillas testified she had been the Executive Director for GATEWAY HOUSE INC. since 2011. Mr. Moody had no further questions for Ms. Stillas. Plaintiff rested.

Defendant/Appellant called himself as his first witness. Mr. Moody testified he never received any documents from Plaintiff/Appellee. He further testified that he had been homeless before going to Gateway House. Mr. Moody stated he did in fact break some rules, but "in all honesty, I am not perfect." Mr. Moody testified he did not want to renew the lease with Gateway House. Mr. Moody stated it was not a safe environment, and therefore he wanted to get out, but he currently had no other place to go. Mr. Moody mentioned having to go to Chester, Pennsylvania to visit his five (5) year old son and other members of his family. Mr. Moody again stated he did not want to be kicked out to the street and become homeless again. He testified money was not an issue, and he did not understand why the only reason Plaintiff/Appellee GATEWAY HOUSE wanted to kick him out was because he had females in his room. Mr. Moody felt it was not fair to single him out as many residents had guests in their rooms. Mr. Moody stated, "visitors are constant at Gateway, I just got caught." Mr. Moody concluded his testimony by reiterating that he only wanted to stay at Gateway House, and pay his rent, until he found another place he could move to so he would not be homeless again. On cross-examination, Mr. Moody testified he had signed the Lease Agreement with Plaintiff/Appellee GATEWAY HOUSE, but he did not know what he was signing and did not understand what was meant in the Agreement. Mr. Moody stated he signed the Agreement because he needed a place to live. Upon further inquiry, Mr. Moody admitted he had received the 60-Day Notice. Mr. Kollias had no further questions for Mr. Moody.

Defendant rested. Plaintiff did not present any rebuttal testimony or evidence.

Mr. Kollias made a closing statement. Mr. Kollias argued Plaintiff/Appellee was entitled to possession of the residence due to rules violations by Mr. Moody, and pursuant to the 60-Day Notice served on Mr. Moody. Mr. Kollias stated Mr. Moody repeatedly violated the rules of Gateway House. Mr. Kollias concluded his argument by stating Mr. Moody admitted he had received the 60-Day Notice.

Mr. Moody made a closing statement. Mr. Moody admitted he had a few females in the residence, but he stated there was nothing wrong with having such visitors. Mr. Moody stated he just did not want to be homeless again and would get out, but he wanted to leave on his own terms.

Findings

A plaintiff has the burden of proving their case by a preponderance of the evidence. “Preponderance of the Evidence is a standard of proof that is met when a party's evidence indicates that the fact ‘is more likely than not’ what the party alleges it to be. Evidence which, as a whole, shows the fact to be proved is more probable than not. 9 Del. Admin. Code 303-5.0.

Plaintiff/Appellee GATEWAY HOUSE introduced into evidence, without objection, as P-1, a Lease Agreement signed on behalf of Plaintiff/Appellee and signed by Defendant/Appellant. Therefore, there is no dispute that the Parties agreed to, and entered into, the said Lease Agreement commencing January 25, 2017 and continuing through January 31, 2018. Plaintiff presented uncontroverted testimony that the Lease Agreement was not renewed in 2018, and therefore became a month-to-month agreement. The *Landlord-Tenant Code* regulates and sets forth the legal rights, remedies and obligations of all of the parties to a residential rental agreement within the State of Delaware. See 25 Del.C. §5101, et seq. The case at bar is a residential Landlord-Tenant action. As per the Lease Agreement, the Rules and Regulations of Gateway House were incorporated into the Lease Agreement, and a copy of the Rules and Regulations were provided to Defendant/Appellant/Tenant MOODY. Rule H states: “Personal visitors are not allowed in the building beyond the Front Desk Area.” On December 11, 2017, Defendant/Appellant was sent a “Warning Visitor Violation,” advising him that he had a female visitor in his residence, and that this was a violation of the Gateway House Rules. Mr. Moody was further advised that if he continued to violate the rules, he may be evicted. On July 24, 2018, Defendant/Appellant was sent a “Warning VISITOR/ROOM VISITATION Violation,” advising him that he had a male visitor in his residence, and that this was a violation of the Gateway House Rules. Mr. Moody was further advised that if he continued to violate the rules, he may be evicted. On January 28, 2019, Defendant/Appellant was sent a “Warning Letter Violation unauthorized visitors,” advising him that he had a female visitor in his residence, and that this was a violation of the Gateway House Rules. On February 19, 2019, Defendant/Appellant was sent a “Warning Letter Violation unauthorized visitors,” advising him that he had a female visitor in his residence, and that this was a violation of the Gateway House Rules. Mr. Moody was further advised that if he continued to violate the rules, he may be evicted.

Plaintiff/Appellee herein is not seeking a monetary recovery, but is seeking possession of the rental property.

25 Del.C. §5513 Landlord remedies relating to breach of rules and regulations:

(a) If the tenant breaches any rule or covenant which is material to the rental agreement, the landlord shall notify the tenant of such breach in writing, and shall allow at least 7 days after such notice for remedy or correction of the breach. This section shall not apply to late payment of rent which is covered under § 5502 of this title.

(1) Such notice shall substantially specify the rule allegedly breached and advise the tenant that, if the violation continues after 7 days, the landlord may terminate the rental agreement and bring an action for summary possession. Such notice shall also state that it is given pursuant to this section, and if the tenant commits a substantially similar breach within 1 year, the landlord may rely upon such notice as grounds for initiating an action for summary possession. The issuance of a notice pursuant to this section does not establish that the initial breach of the rental agreement actually occurred for purposes of this section.

Plaintiff/Appellee introduced into evidence, without objection, numerous warning notices to Mr. Moody. Unfortunately, Mr. Moody continued to violate the rule against having visitors in his room.

25 Del.C. §5106 Rental agreement; term and termination of rental agreement states in pertinent part:

(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.

Plaintiff/Appellee GATEWAY HOUSE introduced into evidence, without objection, as P-3, a copy of the 60-Day Notice dated February 27, 2019, mailed to Defendant/Appellee MOODY on February 28, 2019. Mr. Moody testified he had received the 60-Day Notice. The 60-Day Notice correctly advised Mr. Moody that the Notice was effective “the 1st day of the month following the day of actual notice which is effective March 1, 2019. Your lease/rental agreements will expire May 1, 2019.” As Mr. Moody did not vacate the rental property on or before May 1, 2019, Plaintiff/Appellee filed their Summary Possession Action on May 16, 2019.

Mr. Moody has not disputed he violated the Rules of Gateway House. Mr. Moody has not disputed receiving the timely 60-Day Notice.

Conclusion

For the foregoing reasons, the Court finds in favor of Plaintiff/Appellee and against Defendant/Appellant, and possession of the rental property is granted to Plaintiff/Appellant.

IT IS SO ORDERED 02nd day of August, 2019

/s/ Peter Burcat (SEAL)
Justice of the Peace
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).