

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE  
IN AND FOR SUSSEX COUNTY  
COURT NO. 17

CHANDLER HEIGHTS APARTMENTS  
Plaintiff Below,  
Appellee

VS

JANAE MCDANIEL  
Defendant Below,  
Appellant

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C.A. No. JP17-19-003430

TRIAL DE NOVO

Submitted: August 16, 2019  
Decided: September 5, 2019

**APPEARANCES:**

Appearances: David C Zerbato, Esquire appeared for Plaintiff  
Jayce R Lesniewski, Esquire appeared for Defendant

Alan G Davis, Chief Magistrate  
William P Wood, Justice of the Peace  
John Martin, Senior Justice of the Peace

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE  
IN AND FOR SUSSEX COUNTY  
COURT NO. 17**

**CIVIL ACTION NO: JP17-19-003430**

**CHANDLER HEIGHTS APTS VS JANA E MCDANIEL**

**ORDER ON TRIAL DE NOVO**

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

Plaintiff seeks possession of its rental unit averring Defendant failed to comply with a rules violation notice sent to her pursuant to 25 Del C §5513. Plaintiff has also averred that Defendant failed to recertify her income as she was required to do under the lease, however this Panel will not address that matter as it was not contained within the complaint. The parties appeared for a trial de novo before this three judge panel of Chief Magistrate Davis and Judges Martin and Wood.

The facts of this case are largely uncontroverted. On November 9, 2018 Plaintiff notified Defendant (hereinafter McDaniel) that she was in breach of the rules of her lease for allowing gas and electric services to be terminated for nonpayment. The notice gave McDaniel 7 days to restore services (electric had already been restored), which she did. The notice also informed her that "this notice of violation is effective for a period of one year. Pursuant to 25 Del C §5313(a)(1) if you commit a substantially similar breach within one year, the landlord may rely on the initial notice to immediately file an action for summary possession of your rental unit." McDaniel acknowledged during trial that gas and/or electric services were terminated for nonpayment on at least two occasions subsequent to the November notice she received.

Defense counsel argues that Defendant was not given an opportunity to cure after subsequent violations. He also argues that Plaintiff has failed to prove that these repeated minor violations have disrupted the livability of the project; adversely affected the health or safety of any person or the right of any tenant to quiet enjoyment to the leased premises and related project facilities as Paragraph 23(c) of the lease requires.

This panel unanimously concludes that Plaintiff has proven its case by a preponderance of the evidence. Defendant was properly notified in the November 9 notice that if she committed a similar violation within a one year period, her lease would be terminated without notice as the lease and §5513 permit. Additionally, we are convinced that the termination of essential services such as gas that provides heat to the unit and electric adversely affect the health and/or safety of the tenant and the project. This conclusion is supported by the fact that the City of Seaford had instituted condemnation proceedings once services had been terminated.

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Accordingly, judgment is awarded Chandler Heights Apartments against Janae McDaniel for possession of the rental unit and court costs.

IT IS SO ORDERED 05th day of September, 2019

/S/ William P Wood  
Justice of the peace  
For the three 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).

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