

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

THE ESTATE OF DAVID E JOHNSON
Appellant Below,

VS

MICHAEL W BARGER
RICHELLE L BARGER
Appellee Below,

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C.A. No. JP17-19-005340

TRIAL DE NOVO

Submitted: October 14, 2019

Decided: October 16, 2019

APPEARANCES:

Stephen Johnson for The Estate of David E Johnson
Michael W Barger was self-represented

Shelia G Blakely, Deputy Chief Magistrate
Deborah Keenan, Justice of the Peace
John C Martin, 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: JP17-19-005340

THE ESTATE OF DAVID E JOHNSON VS MICHAEL W BARGER ET AL

ORDER ON TRIAL DE NOVO

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

This action was filed by the plaintiff on or about August 26, 2019 seeking back rent, replacement costs for items removed and possession of the property located at 36605 Whaley's Road, Laurel, DE. The case was heard before a single judge, the Hon. Christopher A. Bradley on September 19, 2019. Judge Bradley issued a decision in favor of the defendants on September 20, 2019. A timely appeal was filed on September 26, 2019 for a trial de novo before three other Justices of the Peace.

On October 14, 2019, a trial de novo was convened before Deputy Chief Magistrate Sheila G. Blakely, Judge Deborah Keenan and Senior Judge John C. Martin. Prior to the start of the trial it was determined that Stephen G. Johnson was not a proper party before the Court because although Stephen G. Johnson was the administrator of his father's estate, the estate had not yet been settled. Therefore, the proper party would be The Estate of David E. Johnson with Stephen Johnson as the Administrator. Plaintiff was permitted to make this substitution of party without objection from the defendants.

The second issue raised by the Court was the defective Notice to Quit issued by the plaintiff to the defendants on July 21, 2019 for failure to pay rent, damage to the property and not having a lease agreement. This notice does not comply with Delaware law. Under Delaware law, a tenant must be put on notice of the amount due and be given an opportunity to cure by the notice letter. For non-payment of rent, the tenant must be given at least 5 days to pay the rent in full under 25 Del. Code, Sec. 5502(a), before the rental agreement can be terminated if the rent is not paid within the time frame given.

For the reasons listed above, this action is dismissed, without prejudice.

IT IS SO ORDERED 16th day of October, 2019

/S/ Shelia G Blakely
Deputy Chief Magistrate
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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