

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

HOLLYBROOK FARMS
Plaintiff Below,
Appellee

VS

DEXTER WISE
Defendant Below,
Appellant

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C.A. No. JP17-21-002272

TRIAL DE NOVO

Submitted: October 14, 2021
Decided: October 14, 2021

APPEARANCES:

Samantha Taulbee as agent for Hollybrook Farms pursuant to Supreme Court Rule 57
Jayce R. Lesniewski, Esq. CLASI, Georgetown, for Dexter Wise

Richard Comly, Justice of the Peace
Jennifer Sammons, Justice of the Peace
John Martin, Senior Justice of the Peace

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
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COURT NO. 17**

CIVIL ACTION NO: JP17-21-002272

HOLLYBROOK FARMS VS DEXTER WISE

ORDER ON TRIAL DE NOVO

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

This is a Summary Possession appeal pursuant to *25 Del. C. § 5717(a)*.

Hollybrook Farms is the landlord for a rental unit known as 300 Pasture Lane, Unit 304, Laurel, Delaware. Dexter Wise is the tenant. On May 7, 2021, the landlord sent to tenant a "FIVE DAY NOTICE OF DELINQUENT RENT". In the notice, the landlord informed the tenant he owed \$83.00 in overdue rent. Ms. Taulbee testified that when the management company files a court case in Delaware, they charge the tenant \$50.00 and add that to the tenant's account. Hollybrook Farms filed a prior action against Mr. Wise on January 5, 2021, Case Number JP17-21-000033. On that action a nonsuit judgment was entered against the landlord. The landlord had charged the Defendant \$50.00 for legal fees. The Defendant had paid the \$50.00 prior to the May 7, 2021 notice being sent. The landlord was not entitled to the \$50.00 legal fees because they lost the prior case. The landlord should have given the tenant a \$50.00 credit, but they did not. Therefore, the May 7 notice overstated the rent due by \$50.00 and is thereby defective. A defective notice cannot be used as the basis to terminate a lease.

Accordingly, Defendant's motion to dismiss is granted. The tenant retains possession of the rental unit.

IT IS SO ORDERED 14th day of October, 2021

/S/ Richard Comly
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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