

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

CLARISSA DORSEY
Plaintiff Below,
Appellee

VS

KEYONNA BOARDLEY
NOBLE WATSON III.
Defendant Below,
Appellant

§
§
§
§
§
§
§
§
§

C.A. No. JP13-23-010085

TRIAL DE NOVO

Submitted: June 24, 2024
Decided: June 27, 2024

APPEARANCES:

Clarissa Dorsey, Plaintiff, appeared represented by attorney Alex Smalls, Esquire
Keyonna Boardley, Defendant, appeared Pro se
Noble Watson III, Defendant, failed to appear

Sean McCormick, Deputy Chief Magistrate, Justice of the Peace
Peter Burcat, Justice of the Peace
Gerald Ross III, 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: JP13-23-010085

CLARISSA DORSEY VS KEYONNA BOARDLEY ET AL

ORDER ON TRIAL DE NOVO

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

A three-judge panel consisting of Deputy Chief Magistrate Sean McCormick and Judges Peter Burcat and Gerald Ross went forward in the above-referenced matter. The case, originally filed on August 23, 2023. After a series of mishaps (including a non-suit subsequently reopened) the matter ultimately went to trial on April 24, 2024. At that time, Alex Smalls Esq. appeared for the Plaintiff; Keyonna Boardley appeared pro se. the other named Defendant, Noble Watson III, failed to appear. After consideration of the testimony and evidence given a single judge ruled in favor of the Plaintiff in the amount of 414,761.53 plus costs and possession of the unit. A default judgement was issued against Noble Watson III. It was from this judgment that Ms. Boardley appealed.

In the time between the initial hearing and the three-judge panel, the residence in question suffered a fire such that it was deemed uninhabitable. Accordingly, possession was no longer an issue. Ms. Boardley made it clear that she had no desire to reinhabit the property. Rather, she wished to contest the amount of the monetary judgment. She claimed that she provided the court with proof of additional payments made to the landlord but not reflected against the debt. (Ms. Boardley agreed she did owe some money, but was never able to articulate what amount she agreed with.) The proof Ms. Boardley referred to was her bank statements. That evidence was the very same evidence supplied the court below for the initial hearing – nothing new was submitted for the purpose of the three-judge panel by the Defense. The problem this engendered for the Defense was that the evidence relied on was the very same evidence the court below had found to be lacking. A comparison of Ms. Boardley's bank statements and the landlord's in fact showed that some monies were paid by Ms. Boardley to the landlord via the cash app computer application. However, the side-by-side comparison also showed times when monies were paid out from Boardley's account but not received by the Plaintiff's. This would be akin to a tenant obtaining a money order and mailing it to the landlord. When it is not received, it is not the landlord's duty to try and trace the money order – it is the tenant's. The panel asked Ms. Boardley if she had consulted with either her bank or the cash app application to see if a trace was feasible. She advised that, although she had contacted her bank, they advised her that since the money went through a third party vendor for purpose of payment they could do not more than certify that the monies were transferred to the third-vendor. She advised that she had taken the investigation no further. When asked why, she simply advised that she thought her evidence was sufficient that the court below got it wrong.

It is impossible to prove a negative. The landlord can only claim they were not paid. Other than to testify that they went unpaid, there is no "evidence" to rely on because the only evidence of a thing that didn't occur is the lack of evidence thereof. In such instances the burden shifts to the tenant

VIEW YOUR CASE ONLINE: <https://courtconnect.courts.delaware.gov>

to show payment was in fact made – and Ms. Boardley fell short of that burden. Judgement of the court below was therefore affirmed in the Plaintiff's favor.

IT IS SO ORDERED 27th day of June, 2024

/s/ SEAN MCCORMICK

DEPUTY CHIEF MAGISTRATE
ON BEHALF OF 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).

VIEW YOUR CASE ONLINE: <https://courtconnect.courts.delaware.gov>