

**IN THE JUSTICE OF THE PEACE COURT NO. 16
OF THE STATE OF DELAWARE IN AND
FOR KENT COUNTY**

FRANCEESE JACQUES,

Appellant/Defendant,

v.

AMAUTY R. ORTIZ,

Appellee/Plaintiff.

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C.A. No. JP16-24-010041

TRIAL DE NOVO

Submitted: January 3, 2025

Decided: January 3, 2025

Franceese JN Jacques, Defendant/Appellant, appeared *pro se with a Haitian Creole Interpreter (Vophsie Cantave)*.

Amaury R. Ortiz, Plaintiff/Appellee, failed to appear.

ORDER

Wilson, DCM

Murray, J

Smith, J

A Three Judge Panel convened on January 3, 2025, acting as a special court pursuant to 25 *Del. C.* §5717(a).¹ This panel was comprised of the Honorable Kevin L. Wilson, the Honorable James A. Murray and the Honorable Judy A. Smith. The Court convened a trial *De Novo*² in reference to a Landlord Tenant Summary Possession petition filed by Amaury Ortiz (“Plaintiff”) against Francesse Jacques (“Defendant”). For the following reasons, the Court enters a ***NON-SUIT JUDGMENT***.

FACTUAL AND PROCEDURAL BACKGROUND

The Court has before it a Landlord Tenant Summary Possession petition filed by the Plaintiff seeking damages due to alleged illegal ouster. A Forthwith Summons (Summons) was filed by Plaintiff on October 15, 2024. The Summons was approved on October 17, 2024, and, an expedited trial was scheduled for October 21, 2024. Thereafter, trial was held, and judgment was entered on October 29, 2024, in favor of ***Plaintiff***.³ Defendant then filed a timely appeal and consequently, trial *de novo* was scheduled.

TRIAL

At 9:20am, the Court convened said trial, Defendant appeared however Plaintiff did not appear.⁴ The Court verified Plaintiff was provided notice of said trial.⁵ Whereas Plaintiff failed to

¹ 25 *Del. C.* § 5717(a). *Nonjury trials*. With Regard to nonjury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgement, a trial, a trial de novo before a special court comprised of 3 justices of the peace other than the justice of the peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgement, by majority vote....

² *De novo* trial. Trying a matter anew; the same as if it had not been heard before and as if no decision had been previously rendered. Black’s Law Dictionary 435 (6th ed. 1990).

³ *Ortiz v. Jacque*, Del. J.P., C.A. No. JP16-24-010041, Tracy, J. (October 29, 2024).

⁴ Trial was schedule to convened at 9:00am. The Court waited an additional 20 minutes for Plaintiff to appear.

⁵ Notice was sent to the address on record from Plaintiff’s forthwith summons request.

appear, the Court advised Defendant the judgment entered previously was now void and the Court would enter a non-suit judgment since Plaintiff failed to appear for trial.

Defendant then requested the Court enter judgment in her favor. She asserted she had evidence on her phone, and she should be compensated for back rent in the amount of \$10,800.00 and for damages to her property. The Court advised Defendant that the Court did not have any counterclaim before it and, as such, would not enter judgment in her favor. She rebutted stating she included her claims with the filing of her appeal. The Court advised Defendant she did not comply with 25 *Del. C.* § 5717(b) which states:

“An appeal taken pursuant to subsection (a) of this section may also include claims and counter-claims not raised in the initial proceeding; provided, that within 5 days of the filing of the appeal, the claimant also files a bill of particulars identifying any new issues which claimant intends to raise at the hearing which were not raised in the initial proceeding.”

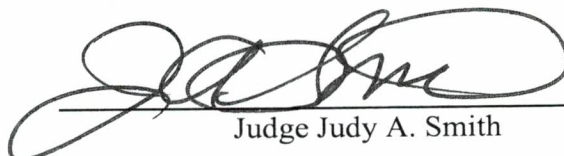
Defendant failed to file a proper counterclaim with a Bill of Particulars pursuant to § 5717(b); therefore, the Court shall take no further action regarding Defendant's request for judgment.⁶

CONCLUSION

Whereas Plaintiff failed to appear after proper notice, the Court unanimously enters a **NON-SUIT JUDGMENT**. Whereas a Non-Suit Judgment entered in this matter, the judgment entered at the October 29, 2024, is hereby **VOID**.

IT IS SO ORDERED, this 3rd day of **January 2025**.

For the Court,

 (SEAL)
Judge Judy A. Smith

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⁶ The Court advised Defendant she could always file a debt action against Plaintiff.