

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

THE PINES AT LONG NECK HOMEOWNERS
ASSOCIATION INC
Plaintiff Below,

VS

BRENT WARD
OLIVIA BELL
DEONTOE DRUMMOND
Defendant Below,

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C.A. No. JP17-25-001046

TRIAL DE NOVO

Submitted: SEPTEMBER 8, 2025

Decided: OCTOBER 17, 2025

APPEARANCES:

Robert Valihura, Esq. for The Pines at Long Neck Homeowners Association
Brent Ward, Olivia Bell, Deontae Drummond - Self-represented

THREE JUDGE PANEL:

Alan Davis, Chief Magistrate
Deborah Keenan, Deputy Chief Magistrate
Jennifer Sammons, Justice of the Peace

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6CF14A3J (3/1/19)

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
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CIVIL ACTION NO: JP17-25-001046

THE PINES AT LONG NECK VS BRENT WARD ET AL

ORDER ON TRIAL DE NOVO

The Pines at Long Neck Homeowners Association, Inc. (hereinafter "Plaintiff") brought an action seeking to stand in the shoes of the owner of a property within the development to obtain the termination of a tenancy at 24 White Pine Drive, Millsboro, Delaware. At the trial before the single justice of the peace, the judge declined to enter a default judgment on behalf of the plaintiff. Plaintiff subsequently appealed the order to a three-judge panel in accordance with 25 *Del. C.* § 5717.

This is the decision of the three-judge panel and the judgment of the Court following a trial *de novo* held virtually on September 8, 2025. All parties appeared at that proceeding. Upon consideration of the evidence presented at trial and arguments of the parties, the Court finds Plaintiff has failed to prove by a preponderance of the evidence that Olivia Bell and Deontae Drummond are tenants subject to the landlord tenant code, and furthermore that Plaintiff has no standing under the covenants of the homeowners association to seek the eviction of them based solely on the covenants and rules against leasing. The Court further finds that defendant Brent Ward is not a proper party to this action and is dismissed from the action.

Relevant Facts and Procedural History

Based upon the record and evidence presented at trial, the Court finds as follows:

Brent Ward is the record owner of 24 White Pine Drive. Ward is not currently living in that home and Bell and Drummond are living there. Bell and Drummond are in a relationship and have children together, who also live at the property. Bell's mother is in a long-term relationship with Ward. For various reasons, Ward and Bell's mother are currently living in Pennsylvania.

The Plaintiff is a duly constituted homeowners association. It has covenants, bylaws and rules governing many aspects of daily life in the development. Homeowners who purchase a home within the community do so under a deed restriction making the owner subject to the covenants. Ward received his property under such a deed restriction.

Among the covenants of this development is a provision that eliminates the right to rent out a home. That covenant was in place at the time Ward obtained his property. The covenant further allows the HOA to stand in the shoes of anyone who rents their property in violation of the covenant, permitting the organization to regulate all aspects of the landlord/tenant relationship, including seeking possession of the property on behalf of the owner.

Plaintiff, upon learning that Bell and Drummond were living in the property and Ward was not, brought this action to enforce the covenant against renting. The organization named the owner and the alleged tenants in the action.

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The evidence shows that Drummond paid a portion of an electric bill two or three times. Drummond testified that those payments were as a courtesy to the owner when he found himself unable to pay. In addition, two witnesses testified that Drummond, when approached by members of the HOA, stated that they should leave "my property".

Complaint Allegations & Defenses

Plaintiff claims that the HOA stands in the shoes of the owner pursuant to the covenant against leasing. It brought this action alleging simply that the lease violates the covenants and should therefore be terminated. Plaintiff alleges that Bell and Drummond are tenants and subject to the jurisdiction of this court.

Defendant Ward suggested during the hearing that he was not a proper party to the action and all defendants averred that they were not tenants. Their argument amounted to a claim that they were guests of the owner.

Discussion

The Court will examine Plaintiff's claims and the defenses raised by defendants. In doing so, the Court notes it considered all the evidence in the record. If specific testimony is omitted from reference in the Court's decision, the Court found it lacking in credibility and/or relevance. The Court also considered all arguments submitted by the parties. To the extent the arguments of the parties are in accordance with the Court's findings and conclusions, the arguments were accepted. To the extent they are inconsistent with the Court's findings and conclusions, the arguments were rejected.

The Court is confronted with a number of questions to consider, many interrelated. It has set forth the discussion of each question below. To the extent that the discussion of a question relies on premises considered in other questions it will not set out those redundant issues.

Is Brent Ward a Proper Defendant in this Matter?

Brent Ward is the record owner of the property in question. He purchased the property subject to the deed restrictions and covenants of the community. When he purchased the property, the prohibition against leasing was already in place. The Plaintiff could bring an action under the covenants and rules against Ward to enforce them in a court of competent jurisdiction, but the instant possession action is not the appropriate vehicle. For this reason, the Court dismisses Ward as a defendant in the action. However, due to his property interest, he will be given notice of all court actions in this case.

Do the Covenants and Rules Imbue the Court with Jurisdiction?

It is a long-standing legal principle that the parties cannot create jurisdiction where it does not exist.¹ Here the Plaintiff seeks to stand in the shoes of the purported landlord by reliance on the covenants and rules. There is privity between the HOA and the homeowner as a result of the covenants

¹ Thompson v. Lynch, 990 A.2d 432, 434 (Del. 2010).

and the homeowner gives up certain rights, and by extension can also bestow rights upon the HOA that might otherwise be theirs and theirs alone.²

In this instance, the covenants and restrictions prohibit the homeowner from leasing his property. If a homeowner leases his property in violation of valid covenants and rules and then refuses to remedy the violation, the HOA may seek a remedy against the homeowner in another court.

If a homeowner leases his property and the tenants violate the covenants and restrictions, and the homeowner then refuses to take action against the tenants to correct the violation, the HOA may step into the homeowner's shoes to enforce the covenants and restrictions against the tenants. The Delaware Uniform Common Interest Ownership Act ("DUCIOA") specifically contemplates that a homeowner's association might act as "landlord."³ For these reasons, the Court has jurisdiction over a matter brought by an HOA, acting in the capacity of "landlord" under the rules. The Plaintiff has standing in this case.

May the HOA Pursue Possession as to the Tenants for Violation of the Rule Against Leasing?

We have established that the HOA has privity with the homeowner vis-à-vis the covenants and rules. But for purposes of this case, we need to determine if the privity extends to the purported tenants. Plaintiff brought this action solely on the claim that the lease violates the covenants and rules against leasing. There are no independent grounds alleged for the possession action under the residential landlord-tenant code.

Where the landlord rents property in violation of the rule against leasing, we have concluded that the HOA has a right to stand in the shoes of the homeowner and act as "landlord." But once in those shoes, the HOA's authority is bound by the rights and obligations set forth in the residential landlord-

² ...[T]he legal force of the restrictive covenants...is contractual in nature." Seabreak Homeowners Ass'n, Inc. v. Gresser, 517 A.2d 263, 269 (Del. Ch. 1986), aff'd, 538 A.2d 1113 (Del. 1988). "Restrictive covenants implicate contractual rights, [and] ... are construed in accordance with their plain meaning in favor of the homeowners." RBV&CC E. Side Homeowners Ass'n, Inc. v. Beebe, No. 2022-0433-SEM, 2023 WL 3937932, at *16 (Del. Ch. June 9, 2023).

³ (c) If a tenant of a unit owner violates the declaration, bylaws or rules of the association, in addition to exercising any of its powers against the unit owner, the association may:

- (1) Exercise directly against the tenant the powers described in paragraph (a)(11) of this section;
- (2) After giving notice to the tenant and the unit owner and an opportunity to be heard, levy reasonable fines against the tenant for the violation; and
- (3) Require, as a means of collecting a fine or past due association fee due from the tenant (and not the unit owner), that the tenant make payments directly to the association in the amount of the rent up to the limit of the amount owed the association.
- (4) Enforce any other rights against the tenant for the violation which the unit owner as landlord could lawfully have exercised under the lease or which the association could lawfully have exercised directly against the unit owner, or both.

Section 81-302(c) of the DUCIOA authorizes an association to enforce any rights against a tenant that the landlord could lawfully have exercised under a lease:

25 Del. C. § 81-302(c).

Aug. v. Glade Prop. Owners Ass'n, Inc., No. 2020-0834-BWD, 2023 WL 3171799, at *14 (Del. Ch. May 1, 2023), exceptions denied, No. 2020-0834-BWD, 2023 WL 5423220 (Del. Ch. Aug. 23, 2023), and exceptions denied, No. 2020-0834-BWD, 2023 WL 5423220 (Del. Ch. Aug. 23, 2023)

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tenant code. In this case, the landlord is not alleging failure to pay rent, an independent breach of the rules or other grounds for possession contemplated by the Code. They are simply alleging the lease itself is prohibited by the rules.

Assuming for a moment that the remaining defendants are tenants, the court struggles to find that they are in violation of any rule to which they can conceivably be held to account. The prohibition against leasing goes against the homeowner. The HOA has no privity under an independently established contract – even one that thwarts the established community restrictions. Leasing is not illegal under the covenants, just civilly prohibited. The attempt by the Plaintiff to seek possession solely based on a violation of the covenants by the homeowner must fail against tenants who are not bound by them and have an independent right to possession as to the homeowner. The HOA would have to allege some other violation under the Code to secure an eviction as landlord. If the HOA wishes to stand in the shoes of the landlord, they have only the authority of the landlord in those circumstances. The HOA's covenants and rules do not take precedence over the Landlord/Tenant Code.

Were the Defendants Tenants in this Instance?

Notwithstanding the conclusion that there are no grounds for possession to be awarded to the landlord, even had the Court concluded there were grounds for eviction, the Plaintiff has failed to prove that the Defendants meet this Court's long-standing simple test for being considered a tenant. That test, regularly decided in cases before this Court, is that any payment related to residing on the property gives rise to tenancy⁴. Here, the Plaintiff has failed to show sufficient grounds to make that conclusion. There is no lease to point to, there is no direct payment to the landlord, there is no admission of a tenancy. The Plaintiff points to two or three partial payments for electricity. This was not a regular occurrence and the testimony of the defendants was that, due to the close relationship of Ward and the remaining defendants, they "helped him out" when he was unable to make those payments. The Court concludes, under these specific circumstances, this is not sufficient to create a landlord-tenant relationship.

Conclusion and Judgment

For the foregoing reasons, the Court concludes and rules as follows:

1. The name of Brent Ward is dismissed as a party in this action.
2. The HOA's covenants and rules cannot be structured in a way that binds tenants such that the HOA can seek eviction based solely on the prohibition against leasing; there must be independent grounds for eviction as to the tenants under the landlord-tenant code.
3. Plaintiff has failed to meet its burden of proof on the seminal issue of whether the remaining defendants are tenants, as contemplated by the residential landlord-tenant code and brought forth no evidence that, had they been tenants, they were in violation of any rule other than the rule against leasing.

⁴ 25 Del. C. Sec. 5501

The complaint is hereby DISMISSED without prejudice.

It is SO ORDERED this 17th day of October, 2025.

/S/ ALAN DAVIS

Chief Magistrate Alan Davis
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).