

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT
) Civil Action No. 2020-CP-26-05267

25th Avenue, LLC,)
)
Plaintiff,)
)
vs.)
)
Carol Ann Honeycutt,)
)
Defendant.)
_____)

**ORDER GRANTING
PLAINTIFF’S MOTION FOR
EJECTMENT HEARING AND
PLAINTIFF’S MOTION TO
AMEND
(Not Ending the Action)**

During a non-jury term of court held via Webex, this Court heard, on May 31, 2022, two outstanding motions: Plaintiff’s Motion for Ejectment Hearing filed October 20, 2020; and Plaintiff’s Motion to Amend its Petition for Ejectment filed September 17, 2021. Based upon Plaintiff’s Motions, accompanying exhibits, the Affidavits of Richard Williams, Defendant Carol Ann Honeycutt’s Answer and accompanying exhibits, and arguments of the parties, the Court grants Plaintiff’s Motion for Ejectment Hearing and Plaintiff’s Motion to Amend.

I FIND AS FOLLOWS:

1. Defendant currently resides at the property located at 400 25th Avenue South, Myrtle Beach, South Carolina (“the Property”). This Property is subject to a commercial “Lease and Contract of Sale” agreement dated December 9, 2005 (“the Contract”). Pursuant to the Contract, Defendant is obligated to pay \$2,000.00 per month in rent. Defendant admitted she has not paid rent since December 2019.
2. On February 5, 2020, Plaintiff filed an Application for Ejectment with the Myrtle Beach Magistrates Court. Defendant was served with a Rule to Vacate or Show Cause on June 16, 2020, and thereafter filed a Request for Hearing to Show Cause. A bench trial was scheduled

to be held on July 23, 2020, but Defendant first requested a continuance of the hearing and then requested a jury trial. On July 20, 2020, the Magistrates Court issued a Bond to Stay Execution, which required that Defendant pay a bond of \$14,000.00 and pay rent of \$2,000.00 per month. At a hearing that same day, Defendant withdrew her demand for a jury trial, and consequently, a bench trial commenced on July 23, 2020. However, the next day, the Magistrates Court transferred the action to the Circuit Court, followed by a written Order, dated September 1, 2020.

3. On June 8, 2021, the Circuit Court remanded the case back to Magistrates Court by Form 4 Order, noting there was no specified reason as to why the case was transferred to the Circuit Court. Later that month, on June 24, 2021, the Magistrates Court transferred the case to the Circuit Court a second time, noting the Magistrates Court lacked subject matter jurisdiction to determine the dispute over real property.

4. South Carolina Code Section 27-37-150 states in part:

After the commencement of ejectment proceedings by the issuance of a rule to vacate or to show cause as herein provided, the rental for the use and occupancy of the premises involved shall continue to accrue so long as the tenant remains in possession of the premises, at the same rate as prevailed immediately prior to the issuance of such rule, and the tenant shall be liable for the payment of such rental....”

5. Section 27-37-155(A)(1) states in relevant part:

In any action involving a commercial lease where the landlord sues for possession and the tenant raises defenses or counterclaims pursuant to this chapter or the lease agreement:

(1) the tenant is required to pay the landlord all rent which becomes due after the issuance of a written rule requiring the tenant to vacate or show cause as rent becomes due....

(Emphasis added.)

6. Section 27-37-155(B)(3) provides that if the tenant has failed to comply with Sections 27-37-150 and -155, the court “shall issue a warrant of ejectment and the

landlord must be placed in full possession of the premises by the sheriff, deputy, or constable.”

7. Similarly, Subsection 27-37-155(B)(5) provides that if a court orders the tenant to pay all rent due and accruing as provided by Sections 27-37-150 and -155, but the tenant fails to make such payment, “the tenant’s failure to comply entitles the landlord to execution of the judgment for possession and, upon application of the landlord,” the court must issue a warrant of ejectment and place the landlord in full possession of the premises by the sheriff, deputy, or constable.

8. Defendant admitted at this hearing that she had not made a payment of rent since on or about December 7, 2019, and Plaintiff’s Affidavits of Richard Williams confirm Plaintiff has not received any rent payment from Defendant since December 2019. Thus, I find no additional hearing on this issue is necessary. It is therefore,

ORDERED that the Defendant is to be ejected from the Property within ten (10) days of the date of this Order and that Plaintiff’s Motion to Amend to add a claim for breach of contract is granted.

Based on the foregoing, it is ORDERED, that a Writ of Ejectment be issued against Defendant and Plaintiff’s Motion to Amend is granted. This Order does not end the action.

IT IS SO ORDERED.

_____, 2022

The Honorable Kristi F. Curtis
Presiding Judge of the 15th Judicial Circuit



Horry Common Pleas

Case Caption: 25th Avenue LLC VS Carol Ann Honeycutt

Case Number: 2020CP2605267

Type: Order/Other

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762