

RECEIVED

Jan 18 2023

SC Court of Appeals

From: [Ariel Mack](#)
To: [Court Of Appeals Filings](#)
Subject: Petition for a Rehearing and Remittitur
Date: Wednesday, January 18, 2023 11:56:12 PM

*** **EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

THE SOUTH CAROLINA COURT OF APPEALS

ROSA GEE ESTATE, PLAINTIFF,

V.

PELICAN HOUSE APARTMENTS, RESPONDENT, OF WHOM ARIEL MACK IS THE APPELLANT,

APPELLANT CASE NO. 2022-001296

SECTION 27-40-800. Undertaking on appeal and order staying execution.

(a) Upon appeal to the circuit court, the case must be heard, in a manner consistent with other appeals from magistrates' court, as soon as is feasible after the appeal is docketed.

(b) It is sufficient to stay execution of a judgment for ejection that the tenant sign an undertaking that he will pay to the landlord the amount of rent, determined by the magistrate in accordance with Section 27-40-780, as it becomes due periodically after the judgment was entered. Any magistrate, clerk, or circuit court judge shall order a stay of execution upon the undertaking.

(c) The undertaking by the tenant and the order staying execution may be substantially in the following form:

State of South Carolina County of Florence
Pelican House _____ Landlord vs. Ariel Mack (appellant) _____
Tenant

Bond to Stay

Execution on Appeal

to Circuit Court

Now comes the tenant in the above entitled action and respectfully shows the court that a judgment of ejection was issued against the tenant and for the landlord on the 11 day of April , 2022, by the magistrate. Tenant has appealed the judgment to the circuit court.

Pursuant to the findings of the magistrate, the tenant is obligated to pay rent in the amount of \$ 523.00 per _____, due on the 5th day of each _____ month _____.

Tenant hereby undertakes to pay the periodic rent hereinafter due according to the aforesaid findings of the court and moves the circuit court to stay execution on the judgment for ejection until this matter is heard on appeal and decided by the circuit court.

—

Tenant

Upon execution of the above bond, execution on the judgment of ejection is hereby stayed until the action is heard on appeal and decided by the circuit court. If tenant fails to make any rental payment within five days of the due date, upon application of the landlord, the stay of execution shall dissolve, the appeal by the tenant to the circuit court on issues dealing with possession must be dismissed and the sheriff may dispossess the tenant.

—

Honorable Judge Frank White

(d) If either party disputes the amount of the payment or the due date in the undertaking, the aggrieved party may move for modification of the terms of the undertaking before the circuit court. Upon the motion and upon notice to all interested parties, the court shall hold a hearing as soon as is feasible after the filing of the motion and determine what modifications, if any, are appropriate. No judgment for ejection may be executed pending a hearing on the motion, provided the tenant complied with the terms of the undertaking.

(e) If the tenant fails to make a payment within five days of the due date according to the undertaking and order staying execution, the clerk, upon application of the landlord, shall issue a warrant of ejection to be executed pursuant to Section 27-37-40 of the 1976 Code.

(f)(1) Upon appeal to the Supreme Court or to the court of appeals, it is sufficient to stay execution of a judgment for ejection that the tenant sign an undertaking that he will pay to the landlord the amount of rent, determined by order of the judge of the circuit court, as it becomes due periodically after judgment was entered. The judge of the court having jurisdiction shall order stay of execution upon the undertaking.

(2) The tenant's failure to comply with the terms of the undertaking entitles the landlord to execution of the judgment for possession in accordance with the provisions of subsection (e) of this section.

A tenant without a written contract is entitled to all the statutory rights a tenant with a contract is

A tenancy agreement exists even if there is only a verbal agreement. A verbal agreement in this case is the landlord (PELICAN HOUSE) accepts monthly payments !!

Ariel Mack
Po Box 15094

Florence SC 29506
(ProSe)

Cc: Mark W. Buyck, III, Esquire