

STATE OF SOUTH CAROLINA IN
THE MAGISTRATE
COURT

2020CV1010100656¹CIVIL CASE NUMBER

Raymond Babich,

PLAINTIFF

ORDER GRANTING
PLAINTIFF'S

vs.

Russell Crawford,

DEFENDANT.

COUNTY OF CHARLESTON

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Apr 12 2023

SC Court of Appeals

MOTION FOR SUMMARY JUDGMENT

Plaintiff filed an Application for Ejectment on July 15, 2020 based on end of term of occupancy or tenancy (end of lease term). After posting of the Rule to Vacate or Show Cause by the court's constable on July 20, 2020, Defendant requested a jury trial on July 22, 2020.¹ Defendant filed a Motion for Summary Judgment on June 11, 2021. After a hearing on July 6, 2021, the court denied Defendant's Motion for Summary Judgment at the hearing (see Written Order Denying Defendant's Motion for Summary Judgment dated July 12, 2021). Plaintiff filed a Motion for Summary Judgment on July 6, 2021. Plaintiff's Motion for Summary Judgment came before the court for hearing on July 14, 2021², with Plaintiff appearing pro se and Defendant being represented by Attorney Matthew Billingsley.

After hearing the arguments and testimony of the parties, the court now issues this Order Granting Plaintiff's Motion for Summary Judgment.

The undisputed material facts in this case are that on March 1, 1998, Defendant entered into a Rental Agreement to lease Lot 3 of the manufactured home park located at 4683 W. Montague Avenue on a month-to month basis. The Rental Agreement provided: "It is mutually agreed that either party may terminate this tenancy by giving the other party thirty (30) days written notice thereof." At some time subsequent to execution of the Rental Agreement, Plaintiff became the owner of the manufactured home park. On March 17, 2020, Plaintiff sent Defendant (and Defendant received) an email stating: "This is notice that your tenancy, including both you and your mobile home trailer, is being ended as of May 1, 2020." Both parties agree, and this court has

¹ Jury trials were suspended by order of the Supreme Court of South Carolina due to the COVID-19 pandemic on April 3, 2020 and December 3, 2020. This case was scheduled for jury trial on July 15, 2021.

² Defendant consented to the hearing on Plaintiff's Motion for Summary Judgment being held on the eighth (8th) day after service, rather than the required ten (10) days after service, in order to facilitate a ruling on said motion prior to the jury trial date.

previously ruled³, that the Manufactured Home Park Tenancy Act, South Carolina Code of Laws Annotated (1976) section 2747-10, et seq, ("MHPTA"), applies to this tenancy.

Plaintiffs Motion for Summary Judgment is based upon his issuance of the March 17, 2020 email containing a 30-day written notice to Defendant terminating the month-to-month tenancy effective May 1, 2020. The basis for Defendant's opposition to this motion rests in part upon the fact that the MHPTA does not enumerate end of lease term as a grounds for eviction in section 2747-530. Defendant argues that the legislature's failure to include end of lease term as a specific ground for eviction indicates that the legislature did not intend a landlord to be able to terminate a tenancy based on end of lease term. However, section 27-47-530(A)(8) allows for an eviction based on any "other reason sufficient under common law," Moreover, section 27-47-110 states: "The provisions of the Residential Landlord Tenant Act in Chapter 40 of Title 27 shall apply to tenancies in manufactured home parks if such application is not inconsistent with or contrary to the provisions of this chapter." Section 27-40-770(b) of the Residential Landlord Tenant Act ("RLTA") provides that a "landlord or [a] tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty days before the termination date specified in the notice." As section 2747110 applies the RLTA to tenancies in manufactured home parks to the extent that the RLTA is not inconsistent with or contrary to the MHPTA, the court finds as a matter of law that section 27-40770(b) applies to this tenancy⁴ and that even when viewing these facts in the light most favorable to Defendant, there is no genuine issue of material fact that Plaintiff issued to Defendant, through the March 17, 2020 email, a written 30-day notice terminating the tenancy.

A second basis of Defendant's opposition to this motion rests on section 27-47-220 of the

MHPTA, which states: "Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performances or enforcement." Defendant argues that certain emails from Plaintiff to Defendant during the course of the tenancy (which relate to numerous issues, including but not limited to potential rent increases) evidence bad faith on the part of Plaintiff in his motives

³ See Order of Final Disposition dated December 19, 2019 in Civil Case Number 2019CV1010101959, denying Plaintiff Shade Tree Park, LLC's Application for Ejectment against this Defendant filed on other grounds.

⁴ In opposition to Plaintiff's Motion for Summary Judgment, Defendant renewed his arguments presented at the July 6, 2021 hearing in their entirety, which the court accepted.

for seeking an eviction based on end of tenancy.⁵ However, the MHPTA does not specify what remedy, if any, applies in instances where landlord acts in bad faith in seeking an eviction.⁶ This

court finds, as a matter of law, that an absolute bar to eviction is not the appropriate remedy for 27-47-220.

For these reasons and as further set forth in the hearing on this motion, it is, therefore, ordered and adjudged that Plaintiff's Motion for Summary Judgment is granted. Plaintiff may seek the Writ of Ejectment on or after July 24, 2021⁷,

Dated: July 19, 2021



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⁵ See Defendant's Response to Plaintiff's Motion for Summary Judgment, 19.

⁶ Whether or not Plaintiff acted in bad faith, thereby violating his duty under section 27-47-220, is a matter of fact. However, it is a matter of law as to what remedy applies to any alleged breach of section 27-47-220. This court makes no findings of fact as to whether Plaintiff acted in bad faith.

⁷ The court issued its ruling on Plaintiffs Motion for Summary Judgment at the conclusion of the hearing on July 14, 2021 and now issues this written order memorializing such ruling,

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Proof of Service

I, Russell T. Crawford, certify under penalty of perjury that on April 12, 2023, I served a copy of the Supplemental Court Order of July 19, 2021 to Respondent by mailing and emailing a true copy to Respondent's counsel William B. Jung, Esq.

William B. Jung, Esq., Attorney for Respondent

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