

**FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL**

**THE STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON**

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In The Court of Appeals

May 15 2023

**APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas**

SC Court of Appeals

R. Keith Kelly, Common Pleas Judge

Appellate Case No. 2023-000729

Ganesh Garden,LLC

Respondent,

v.

**Dr. Allan Rashford,Gloria Rashford, and Allan A. Rashford, P.A.Defendants, Of whom
Dr. Allan Rashford is Appellant.**

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Ganesh Garden by depositing a copy of it in the United States Mail, postage prepaid, on May 15, 2023, [by personally dclivering a copy of it to his attorney of record, J. Chris Lanning, 12-A Carriage Lane Charleston, SC 29407, on May 15, 2023].

May 15,2023

Allan A Rashford
Allan Rashford
MD

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SC Court of Appeals

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Allan A. Rashford
**Allan Rashford
MD**



Charleston Common Pleas

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Case Caption: Ganesh Garden Llc VS Allan A Rashford , defendant, et al
Case Number: 2019CP1006415
Type: Order/Judgment and Form 4

It is so Ordered.

s/ R. Keith Kelly - 2165

Electronically signed on 2023-01-19 15:56:50 page 8 of 8

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Ganesh Garden, LLC

Plaintiff,

vs.

Dr. Allan Rashford, Gloria Rashford and
Allan A. Rashford, P.A.

Defendant.

IN THE COURT OF COMMON PLEAS

CASE # 2019-CP-10-06415

FINAL ORDER

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SC Court of Appeals

This matter was scheduled before me, the undersigned, on April 13, 2023 for a trial on the merits. Raj Patel appeared on behalf of Plaintiff, Ganesh Garden, LLC, with its attorney, J. Chris Lanning. Defendants, Dr. Allan Rashford and Gloria Rashford, appeared pro se.

The trial addressed all those matters set forth in the Complaint filed by Plaintiff on December 11, 2019 and the Answer and Counterclaim filed by Defendants on January 30, 2020.

FINDING OF FACTS

Plaintiff and Defendants presented testimony and evidence and this Court duly considered all of the testimony and evidence presented by all of the parties. This Court assessed the credibility of the witnesses' testimony and all the evidence presented. This Court compared all conflicting or nonconforming elements of such testimony and evidence, choosing certain elements to the exclusion of others. The Court makes the following findings of facts.

Defendants entered into a Lease Agreement in March 2016 for the rental of Unit 60 at 2049 Savannah Highway, Charleston, SC with West Island Center, LLC. This property is located in a shopping mall with several other commercial units in West Ashley. The term of the lease was for one year and the monthly rental payment equaled \$3,000.00. Plaintiff

purchased the shopping mall, including Unit 60, in 2017. The Lease Agreement expired and Defendants went to a month to month rental. When the Lease Agreement expired, Plaintiff and Defendants renegotiated and agreed that the monthly rental amount in 2017 would increase to \$4,500.00, increase to \$5,500.00 in 2018 and increase to \$6,500.00 in 2019. Plaintiff and Defendants also renegotiated and agreed that Defendants would be responsible for late fees if the monthly rental payments were not made on time. Plaintiff and Defendants agreed that Defendants would pay a single monthly late fee of \$100.00 if the rent was not received by the 5th of each month and that Defendants would pay a late fee of \$25.00 per day after the 7th of each month.

Defendants became delinquent on the monthly rental payments beginning in January 2019. Defendants wrote a check to Plaintiff in the amount of \$6,500.00 on January 18, 2019 that was returned for insufficient funds. Plaintiff incurred a fee from its bank for the insufficient check in the amount of \$75.00. Defendants failed to make February's and March's rental payments. In April 2019, Defendants wrote a check in the amount of \$20,000.00 to Plaintiff. This check was also returned for insufficient funds. Plaintiff incurred another fee from its bank for the insufficient check in the amount of \$75.00. Defendants failed to make the rental payments in April, May and June.

Plaintiff filed an eviction with the Magistrates Court in June 2019 to have Defendants evicted from the property for non-payment of rent. A Writ of Ejectment was issued by the Magistrate's Court on July 19, 2019 evicting Defendants from the premises. On August 1, 2019, Defendants were evicted and physically removed from the premises by the Magistrate's Constable. Defendants' personal property, including medical equipment and client files, were left in the unit after the eviction. Plaintiff did not place Defendants' personal property on the

public street or throw it away. Plaintiff informed Defendants they had 30 days to remove their personal property from the unit. Defendants failed to remove their personal property within the 30 days. In February 2020 Defendants removed their personal property from the unit.

The total amount due and owing by Defendants for rent, late fees and bank fees from January 2019 through July 2019 is \$50,425.00. Plaintiff has incurred attorney fees in the amount of \$3,780.00 and costs in the amount of \$260.32 in collection of the unpaid rent.

The total amount Defendants owe to Plaintiff is \$54,465.32.

REVIEW OF APPLICABLE LAW

A. Breach of Contract

A contract is an obligation which arises from actual agreement of the parties manifested by written words or orally. A contract exists where there is an agreement between two or more persons upon sufficient consideration either to do or not to do a particular act. See Player v. Chandler, 299 S.C. 101, 382 S.E.2d 891 (1989); Edens v. Laurel Hill, Inc., 271 S.C. 360, 247 S.E.2d 434 (1978); and Gaskins v. Blue Cross-Blue Shield, 271 S.C. 101, 245 S.E.2d 593 (1978). The word "breach," as it applies to contracts, is defined as a failure without legal excuse to perform any promise which forms a whole or part of a contract. When performance of a duty under a contract is due, any nonperformance is a breach. See Tillinghast v. Boston & Port Royal Lumber Co., 39 S.C. 484, 13 S.E.2d 120 (1893); Restatement (Second) of Contracts § 235 (1981).

The damages recoverable for a breach of contract are those which follow as a natural consequence of the breach. A party who has been injured by the breach of contract is entitled to recover the amount of the loss. The non-breaching party is to be placed in the same position he would have occupied if the contract had been performed. See Stern & Stern Assocs. v. Timmons, 310 S.C. 250, 423 S.E.2d 124 (1992); Manning v. City of Columbia, 297 S.C. 451, 377 S.E.2d

335 (1989); and Goodwin v. Hilton Head Co., 273 S.C. 758, 259 S.E.2d 611 (1979).

CONCLUSIONS OF LAW

Plaintiff filed a Complaint with the Court requesting to be compensated for the damages it sustained as a result of Defendants' breach of the Lease Agreement. A contract is an obligation between parties manifested by written words or orally. A contract exists where there is an agreement between two or more persons upon sufficient consideration either to do or not to do a particular act. See Player v. Chandler, 299 S.C. 101, 382 S.E.2d 891 (1989); Edens v. Laurel Hill, Inc., 271 S.C. 360, 247 S.E.2d 434 (1978); and Gaskins v. Blue Cross-Blue Shield, 271 S.C. 101, 245 S.E.2d 598 (1978). In this instance, a contract and agreement existed between Plaintiff and Defendants. Defendants agreed to pay a monthly rental amount to Plaintiff in the amount of \$6,500.00 to rent the property located at 2049 Savannah Highway, Unit 60, Charleston, SC. Defendants and Plaintiff also agreed that Defendants would pay a single late fee of \$100.00 if the rent payment was not received after the 5th of each month and a \$25.00 per day late fee if the rent payment was not received after the 7th of each month. The Lease Agreement set forth that Plaintiff could recover reasonable attorney fees and costs for collection of rent.

Plaintiff provided a unit for Defendants to rent. Defendants failed to pay the rental amount from January 2019 – July 2019 and were evicted. By failing to make the monthly rental payments to Plaintiff, Defendants breached the Lease Agreement. A "breach," as it applies to contracts, is defined as a failure without legal excuse to perform any promise which forms a whole or part of a contract. See Fillinghast v. Boston & Port Royal Lumber Co., 39 S.C. 484, 18 S.E.2d 120 (1893); Restatement (Second) of Contracts § 235 (1981).

The damages recoverable for a breach of contract are those which follow as a natural consequence of the breach. A party who has been injured by the breach of contract is entitled to

Allan Rashford
Office (843)722-2107
Fax (843) 556-4068

The South Carolina Court of Appeals
Catherine S Harrison

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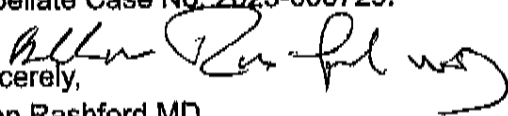
May 15 2023

SC Court of Appeals

Dear Catherine S Harrison Deputy Clerk

Thank you for the information you have given me. I am notifying Julie Armstrong of my appeal.
Appellate Case No. 2023-000729.

Sincerely,
Allan Rashford MD.



Allan Rashford MDPA
3844 Leeds Ave., Suit A Charleston, SC 29405
Phone #(843)722-2107 | Fax #(843)556-4058 |

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TO: The South Carolina Court of Appeals

FAX: (803) 734- 1839

PAGES: 16

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DATE: 5/15/2023

RE: Allan Rashford - Appellate Case No. 2023-000729

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