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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Hon. Jocelyn Newman, Circuit Court Judge

Case No.: 2023-000290

Kierra A. HansonAppellant,

v.

CHA Lorick Circle Office-Amp 3Respondent.

CHA LORICK CIRCLE OFFICE- AMP 3’S RETURN
IN OPPOSITION TO APPELLANT’S PETITION AND MOTION TO STAY

I. STATEMENT OF THE CASE

Appellant is a tenant of the Respondent. Respondent filed the Application for Ejectment against Respondent on March 2, 2022, with the Richland County Waverly Magistrate’s Court. On March 4, 2022, the Richland County Sheriff’s Department posted the Rule to Vacate or Show Cause. On March 11, 2022, the Magistrate’s Court received a request for a hearing from Appellant. The Magistrate’s Court sent a summons for the hearing to the Appellant and Respondent, setting the hearing for March 30, 2022.

On March 30, 2022, Appellant and Respondent attended the hearing. Appellant and witnesses for the Respondent testified that Appellant had not been paying rent. The Magistrate’s

Court ruled that Respondent established grounds for a lawful eviction and ruled for Appellant to vacate the premises by April 17, 2022.

Appellant filed a Notice of Appeal with the Richland County Court of Common Pleas on April 12, 2022. The appeal was heard on December 16, 2022. Respondent failed to appear, but the Court heard arguments from Appellant. The Court took the matter under advisement. On February 1, 2023, the Court entered its Order affirming the Magistrate's Court ruling because the Court the Judge found no errors of law. Appellant then filed a Notice of Appeal and Motion to Stay to the Court of Appeals on March 1, 2023. On May 26, 2023, the Appellate Court issued an Order denying Appellant's Motion to Stay for failure to comply with §27-40-800(f)(1). On May 31, 2023, Appellant filed a second Motion to Stay alleging compliance with the requirements of §27-40-800.

II. STANDARD OF REVIEW

“[I]n ejectment proceedings first heard in magistrate's court, the Court of Appeals is without jurisdiction to reverse the findings of fact of the circuit court if there is *any* supporting evidence [emphasis added].” *Vacation Time of Hilton Head Island, Inc. v. Kiwi Corp.*, 280 S.C. 232, 233, 312 S.E.2d 20, 21 (Ct. App. 1984). “Unless we find an error of law, we will affirm the judge's holding if there are any facts supporting his decision.” *Hadfield v. Gilchrist*, 343 S.C. 88, 538 S.E.2d 268 (Ct. App. 2000).

However, as recognized in *Hadfield*, the Court of Appeals still retains de novo review of whether the facts show the circuit court's affirmance was controlled or affected by errors of law. *Hadfield*, 343 S.C. at 92-93, 53 S.E.2d at 270. Our Supreme Court, in *Stanford v. Cudd*, 93 S.C. 367, 76 S.E. 986 (1913), held that where the testimony is sufficient to sustain a judgment of the magistrate's court, and it is affirmed on appeal to the circuit court, this court will assume the circuit

court affirmed the judgment on the merits, in the absence of facts showing the affirmance was controlled or affected by errors of law.

Under South Carolina Code Ann. §27-37-10 a tenant may be ejected upon application of the landlord when the tenant fails or refuses to pay the rent when due or when demanded.

Under South Carolina Code Ann. §27-40-800(f)(1), the tenant must sign an undertaking to pay the landlord the amount of rent as it becomes due periodically after judgment was entered in order to stay the execution for ejection.

III. ARGUMENT

The testimony in the Magistrate's Court hearing on March 30, 2022, indicated facts sufficient for the Court of Common Pleas to uphold the finding for ejection in the Magistrate Court action. Under South Carolina Code Ann. §27-37-10, failure to pay rent is grounds for ejection of a tenant. Pursuant to the Return of the Civil Appeal filed by the Magistrate's Court on May 10, 2022, both the Respondent and Appellant testified that Appellant had not been paying rent. Therefore, no error of law was made by the lower courts, and facts exist to support their decisions. As such, the Court of Appeals must affirm the lower court's ruling. *Hadfield v. Gilchrist*, 343 S.C. at 94, 538 S.E.2d at 271 (Ct. App. 2000).

Appellant's Motion to Stay does not meet the requirements of South Carolina Code Ann. §27-40-800(f)(1) as Appellant did not post a cash or surety bond to cover rent as it becomes due.

CONCLUSION

For the reasons stated herein, the lower court did not err in affirming the Magistrate's Court's ejection of Appellant. The lower Court's order should be affirmed. Additionally,

Appellant's Motion to Stay should be denied for noncompliance with South Carolina Code Ann. §27-40-800.

Respectfully submitted,

s/Brian A. Autry

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