

STATE OF SOUTH CAROLINA)
)
Michael Munafo and Kathleen)
Gabriel,)
)
Appellants,)
)
-vs-)
)
David Osteen,)
)
)
Respondent.)
_____)

THE SOUTH CAROLINA COURT OF APPEALS

Appellate Case No.: 2023-000787

MOTION TO DISMISS

RECEIVED
Oct 25 2023
SC Court of Appeals

COMES NOW, Respondent, David Osteen, by and through his undersigned attorney, and hereby moves this honorable Court to dismiss Michael Mufano’s and Kathleen Gabriel’s appeal from eviction pursuant § 27-37-130.

Upon filing his appeal, the Magistrate ordered Michael Munafo and Kathleen Gabriel to post a monthly appeal bond on or before the fifteenth of each month. This Order has remained in effect throughout the appeals process. The Appellants failed to make timely payment on October 15, 2023. Therefore, David Osteen requests this Court dismiss the Appellants’ appeal with prejudice.

I MOVE!

s/ Allen Neumeister
Attorney for Plaintiffs
Banks & Neumeister, Attys at Law, LLP
716 F.R. Huff Dr.
St. Matthews, SC 29135
Tel. (803) 874-2100
Allen.nuemiester@gmail.com

October 25, 2023

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AFFIDAVIT OF DAVID OSTEEN

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SC Court of Appeals

The undersigned on oath, being duly sworn, hereby certifies as follows:

I am David Osteen, the owner of the of the subject property. Michael Mufano and Kathleen Gabriel are holdover tenants. The appeal is the result of an eviction case based upon thirty days' notice. As part of the appeal, the Magistrate's Court ordered Michael Munafo and Kathleen Gabriel to pay an appeal bond on or before the fifteenth of each month. The Appellants were given clear instructions that failure to make timely payments would result in the matter being dismissed.

On October 16, 2023, I had not received the monthly appeal bond. Shortly thereafter, I traveled to Santee, South Carolina to check on the property's condition. When I arrived, the door was unlocked. I met Michael Munafo while at the property. When I asked about payment, he said the check was in the mail

On October 22, 2023, a letter containing a money order was left at my door. It did not come through the mail. The payment was a full week late. In accordance with the court's ruling and the judge's warning, I request the court dismiss Michael Munafo's and Kathleen Gabriel's appeal and grant an order providing a writ of ejectment.

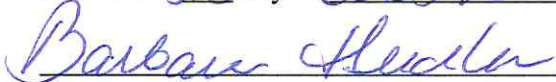
Further say the Affiant not,



David Osteen

October 23, 2023

Sworn to and subscribed to before
me on this 23 day of October, 2023



Notary Public for South Carolina
My commission expires: 2/1/32