

The South Carolina Court of Appeals

Margie Kelsie, Appellant,

v.

American Ave PM, LLC, Respondent.

Appellate Case No. 2023-001927

ORDER

On April 16, 2024, this court remanded this case to the circuit court for a hearing on Appellant's motion to stay and to consider an appeal bond. The circuit court held a hearing and issued an order requiring Appellant to pay to Respondent \$7,090 on or before April 25, 2024, and \$1,418 on the first of each month thereafter, while her appeal remains pending. Appellant has now filed another motion to stay, after having received another writ of ejectment. However, Appellant has failed to pay the bond ordered by the circuit court. *See* S.C. Code Ann. § 27-40-800(f)(1) (2007) ("Upon appeal to the Supreme Court or to the court of appeals, it is sufficient to stay execution of a judgment for ejectment 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."); S.C. Code Ann. § 27-40-800(f)(2) (2007) ("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."). Based on the foregoing, Appellant's motions to stay the eviction filed on April 16, 2024, and May 13, 2024, are denied.

On April 22, 2024, Respondent filed a motion to dismiss the appeal as moot, arguing "the completed eviction of Appellant renders any grant of effectual relief impossible for the court" and that "[t]here is no defense or assertion that the Appellant may bring before this [c]ourt which would all[ow] Appellant to prevail on a dismissal for *res judicata*." No return was filed. After careful consideration, we deny the motion to dismiss.

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FOR THE COURT

Columbia, South Carolina

cc:

Margie Kelsie

Jason Mark Hunter, Esquire

Jeanette W. McBride

The Honorable Jocelyn Newman

FILED

May 14 2024