

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
G.D. Morgan, Jr., Circuit Court Judge

Case No. 2024-CP-23-00257

Appeal Case No. 2024-00552

RECEIVED

May 16 2024

SC Court of Appeals

Plantation At Haywood

Respondents

v.

Natasha Harris

Appellant,

INITIAL BRIEF OF APPELLANT

Natasha Harris
13 Cross Pointe Dr
Greenville, SC 29607
Appellant-Pro se

Plantation At Haywood
555 Haywood Rd
Greenville, SC 29607

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STATEMENT OF THE CASE

The Circuit Court erred in dismissing appeal sua sponte.

The Circuit Court erred in holding Appellant liable when Respondents failed to appear.

The Circuit Court erred in dismissing appeal sua sponte.

The Circuit Court erred in holding Appellant liable when Respondents failed to appear.

The Circuit Court erred by allowing Magistrate judge to continue action without Respondents being present at hearing.

The Circuit Court did not apply the appropriate standard of review regarding the Magistrate's return

FACTS

The facts of this case are simple. The Appellant, as Tenant moved into the Plantation At Haywood Apartments in September 2023. After moving in, Appellant noticed some issues with the unit. In accordance with the Lease, Appellant complained to management that several repairs were needed through the unit. The main bathroom had what appeared to be mold stains. The countertop was coming away from the wall. In the kitchen the stove top eyes were broken and not working in addition to other issues which would arise. After stating her complaints by email and by phone, Appellant took steps to withhold the rent until repairs were made. The repairs have not been made. However, Appellant's family removed what appeared to be mold.

In November, 2023 Respondents filed their initial action. The case proceeded and on January 31, 2024 Respondents failed to attend the mandatory bond hearing. The Magistrate Judge presided over the bond hearing and stated that she was not ordering that bond be posted in this case. The Appellant argues that without the order of bond, and absence thereof, the Circuit Court did not have jurisdiction to hold that failure to pay rent for January and February constituted a waiver of the magistrate's court appeal to Circuit Court.

STANDARD OF REVIEW

In the South Carolina Court of Appeals, We are bound by the factual findings under review as long as they are supported by any evidence. See *Vacation Time of Hilton Head Island, Inc. v. Kiwi Corp.*, 280 S.C. 232, 233, 312 S.E.2d 20, 21 (Ct. App. 1984). Even so, "[d]etermining the proper interpretation of a statute is a question of law, and [the appellate court] reviews questions of law de novo." *Palmetto Co. v. McMahon*, 395 S.C. 1, 3, 716 S.E.2d 329, 330 (Ct. App. 2011) (quoting *Town of Summerville v. City of North Charleston*, 378 S.C. 107, 110, 662 S.E.2d 40, 41 (2008)). The Circuit Court was bound by the South Carolina Landlord Tenant Act and its provisions. Once the Magistrate Court set the ate for the bond hearing, which is mandatory and is an extension of the Writ of Ejectment, any party not attending this mandatory hearing forfeits their claim and position. The fact that Respondents failed to appear divested the magistrate judge and the Circuit Court of jurisdiction to dismiss appeal for failure of an act on part of Appellant.

ARGUMENT

Appellant cites the South Carolina Landlord Tenant Act Section 27-37-10 et seq. More specifically **SECTION 27-40-790**. Payment of rent into court. (c) Should the tenant not appear and show cause within ten days, the court shall issue a warrant of ejectment pursuant to Section 27-37-40 of the 1976 Code. In the event that the Appellant fails to appear for any mandatory appearance, the magistrate judge would dismiss the appeal and order the eviction. Contrary, the Respondents missed the bond hearing and there was no bond order, however, the Circuit Court sua sponte dismissed Appellant's appeal for failure to pay January and February 2024.

Respectfully, the Circuit Court should have rather than dismiss Appellant's Circuit Court appeal, the Circuit Court was well within its authority to dismiss the eviction action and require Respondents to file a new action. Further, Appellant should have been granted a default and the case dismissed for want of prosecution.

CONCLUSION

For the reasons stated herein, the Court should reverse the lower court's decision to dismiss Appellant's appeal and remand the case to proceed in the Court of Common Pleas.

May 16, 2024

Respectfully Submitted

s/Natasha Harris
Natasha Harris
13 Cross Pointe Dr
Greenville, SC 29607