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Apr 28 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas
Brian Gibbons, Circuit Court Judge

Civil Action No. 2024-CP-29-00993

Appellate Case No. 2024-001696

Graham Underwood and Felicia Underwood, Appellants,
v.
Heartland Realty, Respondent

MOTION TO SUBSTITUTE PARTIES

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ATTORNEY FOR INTERVENOR CLAYTON LAMAR HALL

TABLE OF AUTHORITIES

STATUTES

SC Code of Laws (1986) § 27-40-450(b) 3
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RULES

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Clayton Lamar Hall, by and through his attorney, Donovan M Steltzner, brings the following motion before this Court:

INTRODUCTION

At the time of the initial notice of eviction in this case, Respondent Heartland Realty (“Heartland”) was acting as property manager for the leased premises on behalf of Clayton Lamar Hall (“Hall”), the owner of record for the real property and improvements located on 1722 Baskins Hill Road, Heath Springs, SC 29058. *See* Exhibit 1. On or about October 16, 2024, and upon belief that his interests would not be defended further than at the Circuit Court level, Hall terminated Heartland in writing. *See* Exhibit 2. As there is no current agency between Hall and Heartland, Hall now wishes to intervene by right and be substituted for Heartland. This Motion is made pursuant to Rule 240 of the South Carolina Appellate Court Rules and is supported by the embedded Memorandum.

APPLICABLE LAW AND ANALYSIS

Although “...[a] real estate broker-in-charge licensed in this State [...], in the conduct of his licensed business may, either in person or through one or more regular employees, complete a form writ of eviction and present facts to judicial officers on behalf of his landlord/principal in support of an action for eviction and/or distress and/or abandonment...” SC Code of Laws (1986, as amended), § 27-40-710(C), any ability to act on behalf of the landlord ends upon termination of its agency agreement by the landlord. In the event of this termination, the agent’s responsibility is terminated. SC Code of Laws (1986) § 27-40-450(b).

The SC Rules of Civil Procedure, Rule 24, states, in part:

“(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action:

...(2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties....” SCRCF Rule 24.

Further, SC Rules of Civil Procedure, Rule 25, states, in part:

“(c) Transfer of Interest. In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party.” SCRCF Rule. 25.

On July 1, 2024, Respondent Heartland filed suit demanding a Writ of Ejectment of the residential premises occupied by the Appellant; the writ of Ejectment was granted on July 19, 2024, and stayed on appeal to the Circuit Court. The Circuit Court dismissed the appeal on October 8, 2024, and the Writ of Ejectment was re-issued on even date. While Heartland is equipped to handle the magistrate court and civil court actions, they are not equipped to assist Hall in a Court of Appeals action and would need legal counsel.

Upon knowledge and belief that Heartland would not represent Hall further, the agency was terminated in writing. Upon termination of that relationship, Hall, as owner of the leased property is question, has willingly transferred upon himself the Respondent’s role and responsibility as agent entirely and has sought counsel to that end. As such, Hall is the natural intervenor, and as such the suit will proceed “as if the action had been commenced by [him].” SCRCF Rule 17(a).

WHEREFORE for the foregoing reasons, Hall respectfully requests that this Motion be granted and that the Court enter an order: (i) substituting Clayton Lamar Hall as the real party in interest in the place of Heartland Realty; and (ii) directing the Clerk to amend the docket to reflect the substitution.

Respectfully submitted,

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Respondent

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(2), and Rule 262(c)(1) SCACR, the undersigned hereby certifies that a true copy of the Motion for Substitution of Parties in the above-referenced case has been served upon Graham Underwood, Felicia Underwood, and Heartland Realty at their mailing address listed below, on this the ____ day of December, 2024.

Graham Underwood
Felicia Underwood
1722 Baskins Hill Road
Heath Springs, SC 29058

Heartland Realty
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Kershaw SC 29067

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