

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

CIVIL ACTION NO: 2025-CP-46-01222

Tonya R. Blake, Individually and as Personal
Representative of the Estate of Reco D. Miller,

Plaintiff,

v.

Brenda Burris,

Defendant.

**ORDER GRANTING DEFENDANT BRENDA
BURRIS' MOTION TO DISMISS**

This matter came before the court upon Defendant Brenda Burris (“Defendant”)’s Motion to Dismiss at a hearing held on August 12, 2025. E. Raymond Moore, III, appeared and argued the motion on behalf of Defendant, and Taylor Grooms appeared and argued on behalf of Plaintiff Tonya R. Blake, Individually and as Personal Representative of the Estate of Reco D. Miller (“Plaintiff”). Both counsel made compelling arguments on behalf of their clients. The Court acknowledges and sympathizes with the unfortunate loss of life in this case. However, based on a review of the file, submissions of the parties, and after hearing oral argument, the Court hereby **GRANTS** Defendant’s Motion to Dismiss and the Plaintiff’s Complaint is **DISMISSED**, without prejudice. Plaintiff has not alleged facts sufficient to constitute a cause of action and the allegations of Plaintiff’s Complaint, viewed in the light most favorable to Plaintiff, do not support relief under any theory of law.

FACTS

This case arises out of a fire that occurred at a single-family residential home in Rock Hill, South Carolina. For several years, Plaintiff rented the home from Defendant and lived there along with her husband and son. Compl. ¶ 6. On April 26, 2022, Plaintiff’s husband alerted her to a fire

which had broken out in his room. *Id.* at ¶¶ 8-9. Plaintiff's husband, who had previously suffered a stroke and was confined to a hospital bed, was unable to get out of the house and died in the fire. *Id.* at ¶¶ 7, 11. Plaintiff alleges that the rental home was not equipped with smoke detectors. *Id.* at ¶¶ 15-17. Plaintiff alleged causes of action for negligence, survival, wrongful death, loss of consortium, and negligent infliction of emotional distress. *Id.* at ¶¶ 14-39.

STANDARD OF REVIEW

“Under Rule 12(b)(6), SCRPC, a defendant may make a motion to dismiss based on a failure to state facts sufficient to constitute a cause of action.” *Pitts v. Jackson Nat. Life Ins. Co.*, 352 S.C. 319, 327, 574 S.E.2d 502, 506 (Ct. App. 2002) (quoting *Baird v. Charleston Cty.*, 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999)). “A ruling dismissing a complaint for failure to state facts sufficient to constitute a cause of action must be based solely on allegations set forth in the complaint.” *Click Props., LLC v. Thomas SC Props., LLC*, 445 S.C. 468, 483, 914 S.E.2d 488, 495 (Ct. App. 2025), *reh'g denied* (Apr. 10, 2025) (citing *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007)). “The question to be considered is whether, when viewed in the light most favorable to the plaintiff, the complaint states any valid claim for relief.” *Carolina Care Plan, Inc. v. United HealthCare Servs., Inc.*, 361 S.C. 544, 550, 606 S.E.2d 752, 755 (2004). Dismissal is appropriate “if the facts alleged in the complaint do not support relief under any theory of law.” *Cap. City Ins. Co. v. BP Staff, Inc.*, 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009).

DISCUSSION

I. Defendant cannot be liable for alleged failure to install smoke detectors because liability is barred under S.C. Code Ann. § 5-25-1380.

Plaintiff-tenant alleged negligence-based causes of action for Defendant-landlord's alleged failure to install smoke detectors in her rental home. Article 11 of Building Codes and Fire Prevention requires an owner to provide smoke detectors in rented one-family homes. S.C. Code

Ann. §§ 5–25–1310 and 1330(A). However, Article 11 specifically states: “Failure to comply with the provisions of this article *does not create a cause of action* for a per se statutory violation for liability, *or for negligence-based* liability, for death, injury, or damages.” S.C. Code Ann. § 5–25–1380 (emphasis added). The Court of Appeals has held that this provision precludes liability for failure to install smoke detectors. *Robinson v. Code*, 384 S.C. 582, 587-88, 682 S.E.2d 495, 497-98 (Ct. App. 2009). Therefore, even accepting Plaintiff’s allegations regarding the lack of smoke detectors as true, S.C. Code Ann. § 5–25–1380 precludes recovery against Defendant on that basis. *Id.* at 588, 682 S.E.2d at 498 (“Article 11 does not provide for a negligence cause of action.”). Accordingly, Plaintiff’s allegations regarding smoke detectors fail to allege facts sufficient to constitute a cause of action and are hereby dismissed.

II. Plaintiff’s allegations of negligence do not allege that written notice was provided to Defendant as required for liability to attach under the Residential Landlord and Tenant Act, S.C. Code Ann. § 27-40-630(d).

Plaintiff’s Complaint asserts allegations relating to smoke detectors and general, conclusory allegations of negligence concerning the premises. The Residential Landlord and Tenant Act (“the Act”) creates a negligence cause of action for a tenant of residential property against his or her landlord “for failure, *after notice*, to make necessary repairs and to do what is reasonably necessary to keep the premises in a habitable condition.” *Watson v. Sellers*, 299 S.C. 426, 433, 385 S.E.2d 369, 373 (Ct.App.1989) (emphasis added). There is no specific requirement under the Act mandating that a landlord provide smoke detectors. *Code*, 384 S.C. at 586, 682 S.E.2d at 497. Moreover, no cause of action for negligence arises until a tenant “has given notice to the landlord and the landlord fails to act within a reasonable time[.]” S.C. Code Ann. § 27–40–630(d).

The general and conclusory allegations of the Complaint do not allege that Plaintiff provided written notice to Defendant regarding any allegedly deficient condition of the rental

property. Similarly, the Complaint does not allege that Plaintiff provided written notice to Defendant regarding any lack of smoke detectors. Accordingly, the allegations of Plaintiff's Complaint, viewed in the light most favorable to Plaintiff, do not support relief under any theory of law and must be dismissed.

III. The Complaint's conclusory allegations are insufficient to overcome Defendant's motion to dismiss under Rule 12(b)(6), SCRCP.

Plaintiff's Complaint alleges various general and conclusory allegations, including that Defendant was negligent in:

- “(b) Failing to address known or foreseeable risks associated with fire safety; ...
- (d) Failing to implement or enforce a proper maintenance plan to ensure the home remained safe and habitable;
- (e) Failing to otherwise act as a reasonably prudent owner or manager of a short-term rental would have acted under the same or similar circumstances; ...
- (f) Failing to ensure the house contained proper life safety and fire protection measures; ...
- (h) In such other particulars as the evidence at trial may show.”

Compl ¶ 17. Allegations which are merely conclusory are subject to dismissal. *Jones v. Gilstrap*, 288 S.C. 525, 528, 343 S.E.2d 646, 648 (Ct. App. 1986) (affirming dismissal of a complaint where were “conclusory only and therefore demurrable.”) (citing *Stroud v. Riddle*, 260 S.C. 99, 194 S.E.2d 235 (1973)). “A motion under Rule 12(b)(6) ... admits the well pleaded facts in the complaint, but it does not admit the inferences drawn by the plaintiff from such facts, nor does it admit conclusions of law.” *Carolina Winds Owners' Ass'n, Inc. v. Joe Harden Builder, Inc.*, 297 S.C. 74, 76, 374 S.E.2d 897, 899 (Ct. App. 1988) (citing *Bryan v. Stillwater Bd. of Realtors*, 578 F.2d 1319 (10th Cir.1977)) (*disagreed with on other grounds, Kennedy v. Columbia Lumber & Mfg. Co.*, 299 S.C. 335, 384 S.E.2d 730 (1989)). Plaintiff's general and conclusory allegations do not include facts sufficient to support a cause of action for negligence. Accordingly, dismissal of Plaintiff's Complaint is proper under Rule 12(b)(6), SCRCP on this additional basis.

It is therefore **ORDERED** that Defendant Brenda Burris' Motion to Dismiss is **GRANTED** and the Complaint is hereby **DISMISSED**, without prejudice.

AND IT IS SO ORDERED.

electronic signature to follow

Honorable G. D. Morgan, Jr.
Circuit Court Judge



York Common Pleas

Case Caption: Tonya R Blake Ind And As Pr Of The Estate Of Reco Miller VS
Brenda Burris
Case Number: 2025CP4601222
Type: Order/Dismissal

So Ordered

G.D. Morgan Jr.