

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

Chelsea Gibbs,

v.

Northbridge Court Apartments

APPELLANT

RESPONDENT

CLERK OF COURT
BERKELEY COUNTY, S.C.

16 DEC 20 PM 1:19

FILED

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other

- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

- See attached order. (Formal order to follow)
- Statement of Judgment by the Court:

Defendant's civil appeal from Magistrate's Court, filed September 3, 2016, came before the Court on December 5, 2016. "Section 18-7-170 of the South Carolina Code (1985) articulates the standard of review to be applied by the Circuit Court in an appeal of a magistrate's judgment: Upon hearing the appeal, the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment, the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact." Bowers v. Thomas, 373 S.C. 240, 244, 644 S.E.2d 751, 753 (Ct. App. 2007). Based on the arguments presented at the hearing the Court affirms the decision of the lower court.

The argument set forth by Appellant that Respondent failed to prove that Appellant moved someone into her unit is without merit. The Magistrate's Return, submitted by Judge Whilden V. Baggett, and filed September 7, 2016, included testimony from the property manager, Angela Shelton, as well as the maintenance manager that indicated that the Appellant and her guest, Mr. Watson, were at the apartment daily, including evenings. Alongside the testimony, Plaintiff also submitted evidence that indicated that Mr. Watson was an unregistered guest. The Lease Agreement, signed by Appellant, indicated that overnight guests must be registered at the office, in writing, before 5:00PM and that "failure to register your guest could result in termination of your lease." This Court finds adequate evidentiary support in the record to conclude that Mr. Watson, an unregistered guest, was occupying the apartment overnight, in violation of the lease agreement, and thus created grounds for termination of Appellant's lease. Accordingly, this Court, having found no error of law, and finding no abuse of discretion, AFFIRMS the decision of the lower court upholding the eviction based on the grounds that Appellant had an unregistered guest residing with her.

Additionally, the argument advanced by Appellant that Respondent's notice of lease termination did not comply with 24 CFR 247.4 is also without merit. 24 CFR 247.4(a)(2) applies to apartments subsidized by the section 8 program under the Department of Housing and Urban Development. It states that reasons for

the landlord's termination must be specific enough to allow the tenant to prepare a defense. On July 1, 2016, Appellant received notice that she was in violation of the lease agreement and that based upon the violation, she had thirty (30) days from the date of the notice to vacate the apartment. The notice stated that:

"Northbridge Court Apartments is informing you of the intent to terminate your lease agreement in thirty (30) days for the following reasons: Allowing persons to live with you that are not on the list: 1) As per the lease, all guests must be registered. You never have registered your guest. 2) As per the lease you cannot move people in without the person applying and being approved by the office. 3) Causing "Police Action" in the office on 06/01/2016."

On July 13, 2016, Appellant was again notified that a hearing had been conducted and the termination had been upheld. This Court finds that notice was sufficient to both put the Appellant on notice of the eviction proceedings and listed the reasons for the termination so that the Appellant could prepare a defense.

Further, the Appellant argues that "Causing 'Police Action'" is not grounds for termination of Appellant's lease because it is vague and because Appellant was not the cause of the "Police Action." Section 23(c) of Appellant's lease agreement states that:

[t]he landlord may terminate this Agreement for the following reasons: . . . (6) criminal activity by a tenant, any member of the tenant's household, *a guest or another person under the tenant's control*: (a) that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises; (b) of that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises.

(emphasis added). The Notice of Appeal, filed August 24, 2016, stated that Angela Shelton, the property manager, observed Appellant's guest, Mr. Watson, loitering around the premises such that it caused a disturbance that needed police action, in direct violation of the lease agreement. Even if Appellant did not have knowledge of the police action, Mr. Watson was a frequent guest of hers and as such, was under Appellant's control. Accordingly, this Court, having found adequate evidentiary support to uphold the ruling of the lower court, having found no error of law, and finding no abuse of discretion, AFFIRMS the decision of the lower court that Appellant had proper notice of her lease termination pursuant to 24 CFR 247.4.

Finally, the Court also finds without merit Appellant's argument that Respondent failed to prove that Mr. Watson was a guest that engaged in drug related criminal activity. The Magistrate's Return indicated that Ms. Shelton, the property manager, as well as the maintenance manager either saw Mr. Watson with marijuana or smelled it coming from the apartment. Further, the maintenance manager witnessed Mr. Watson's drug related arrest. Accordingly, this Court AFFIRMS the decision of the lower court upholding the eviction based on the grounds that Mr. Watson engaged in drug related criminal activity while in Appellants apartment.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

AK Jettell
Circuit Court Judge

2128
Judge Code

12/14/16
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20__ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20__ to attorneys of record or to parties (when appearing pro se) as follows:

Matthew M. Billingsley, Esq.

Jay S. Masty, Esq.

APPELLANT

ATTORNEY FOR RESPONDENT

CLERK OF COURT

Court Reporter: Phyllis Norton