

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
REBA WHARTON)
)
Plaintiff,)
)
vs.)
)
South Carolina Housing Authority No. 1,)
)
Defendant.)
)
_____)

IN THE COURT OF COMMON PLEAS

C.A. No.: 2015-CP-23-5648

**ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

This matter came before the court for a hearing on January 27th, 2017. Present at the hearing were attorney for Plaintiff, La'Keabian Henderson, and attorneys for Defendant, Tyler E. McLeod and Knox L. Haynsworth, III. At this hearing, this Court conditionally granted Defendant's motion, holding in abeyance a final decision to allow Plaintiff additional time to provide the "verified claim" alleged in her complaint. The Court allowed Plaintiff four weeks to engage in limited discovery regarding the production of the alleged verified claim.

According to Plaintiff's Complaint, the injury Plaintiff alleges she suffered occurred on July 4, 2013. The Plaintiff filed her Summons & Complaint on September 14, 2015.

The Tort Claims Act governs this action. S.C. Code § 15-78-110 states, in pertinent part, "Except as provided in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should

have been discovered. ”

S.C. Code § 15-78-80 states in pertinent part, “(a) A verified claim for damages under this chapter, setting forth the circumstances which brought about the loss, the extent of the loss, the time and place the loss occurred, the names of all persons involved if known, and the amount of the loss sustained may be filed: (1) in cases against the State, with the State Fiscal Accountability Authority, or with the agency employing an employee whose alleged act or omission gave rise to the claim. . . (c) Filing may be accomplished by receipt of certified mailing of the claims or by compliance with the provisions of law relating to service of process. (d) The verified claim may be received by the State Fiscal Accountability Authority or the appropriate agency or political subdivision. If filed, the claim must be received within one year after the loss was or should have been discovered.”

S.C. Code Ann. § 15-78-30(b) (Supp.1999).

In order for the Plaintiff to extend the Statute of Limitations to three years, she needed to file a verified claim within one year after the loss was discovered. Plaintiff has failed to produce a verified claim after the Court allowed additional discovery on that issue. Therefore, the action had to be commenced within two years after the date the loss was discovered which was July 4, 2013.

Due to the Plaintiff not filing her Complaint until September 14, 2015, the Plaintiff’s action is forever barred by S.C. Code §15-78-110.

Based on the foregoing, the Court grants Defendant’s motion for summary judgment.

IT IS SO ORDERED.

Edward W. Miller

May ____, 2017

Greenville, South Carolina



Greenville Common Pleas

Case Caption: Reba Wharton vs. Housing Finance And Development Authority
South Carolina Sta , defendant, et al
Case Number: 2015CP2305648
Type: Order/Summary Judgment

So Ordered

s/ Edward W. Miller