

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Donald B. Hocker, Circuit Court Judge

Appellate Court Case No. 2016-002177
Circuit Court Case No. 2016-CP-32-1968

Gerald J. Nagy, Appellant.
v.
Bob Rice Realty, Inc., Respondent,

APPELLANTS REPLY TO
RESPONDENTS FINAL BRIEF

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Come now the Appellant, Gerald J. Nagy, Pro Se, and hereby submits the following:

1. On June 02, 2016, in Magistrates Court case #2016-CV-1060854, the Honorable Albert J. Dooley found for Respondent in an eviction proceeding.
2. On September 20, 2016, in Circuit Court case #2016-32-1968, the Honorable Donald B. Hocker issued an order reversing the decision of Magistrates Court. By doing so, Judge Hocker agreed with Appellants arguments that a Residential Lease Agreement between Appellant and Respondent, originally dated on January 01, 2014 was in effect, and the automatic renewal clause contained therein, was valid. Judge Hocker also awarded Appellant court costs but denied additional damages claimed by Appellant.
3. On October 14, 2016, Appellant filed an appeal with the South Carolina Court Of Appeals, appealing only "the monetary damage award" of Judge Hocker.
4. Respondent did not file any type of appeal.
5. On July 20, 2017, Respondent filed their RESPONDENT'S INITIAL BRIEF.
6. In Respondents brief, under TABLE OF CONTENTS - Arguments, Respondent lists five items, three of which (#1, #2, & #4) are items not under consideration in Appellants appeal, and these issues should not be considered in this Appeal based on the Circuit Court reversal of the Magistrates ruling. Respondent is attempting to obfuscate the issues under appeal, and turn this into a trial de novo.
7. In Respondents brief, under STATEMENT OF ISSUES ON APPEAL, #1, Respondent is attempting to argue an issue that is not part of the Appellants appeal. If Respondent disagreed with the ruling of the Circuit Court, Respondent should have filed their own appeal on that matter.
8. In Respondents brief, under STATEMENT OF ISSUES ON APPEAL, #2, Respondent

questions the authority of the Circuit Court to consider evidence not admitted at the trial court level. Yet, in their same brief on page 5, under STANDARD OF REVIEW Respondent states in part "**...the circuit court maintains a broad scope of review...**". Yes it does and acted well within its scope of authority.

9. In Respondents brief, under STATEMENT OF ISSUES ON APPEAL, #3, Appellant asks:

"Did the Circuit Court err in denying Appellants request for damages?". Appellant believes the answer is yes, that this is the only issue under appeal, and has yet to be determined based on the outcome of this appeal.

10. Addressing Respondents brief, under STATEMENT OF ISSUES ON APPEAL, #4. These items were brought forth in Appellants ANSWER AND COUNTERCLAIM, (R,pp5-8), but were not permitted to be brought forth at initial trial as the Magistrate did not rule in favor of Appellant.

Permeating throughout their brief, Respondent states facts and infers conclusions in reference to the decisions of the two lower courts.

11. Respondents Brief, Page 3, Paragraph 2. Based on the ruling of the Judge Hocker, there was in fact no month to month lease. It was a lease agreement with a one year term that automatically renewed unless specifically terminated in writing by one of the two parties, which never happened prior to the filing of this appeal.

12. Respondents Brief, Page 4, Paragraph 1. In the March 31st hearing the Magistrate made no findings other than the failure of the Respondent to send a 30 day Certified or registered letter to Appellant.

13. Respondents Brief, Page 5, Paragraph 2. Respondent stated an opinion that "**...Judge Hocker in effect stayed the execution...**" which has absolutely no basis under any statute. It

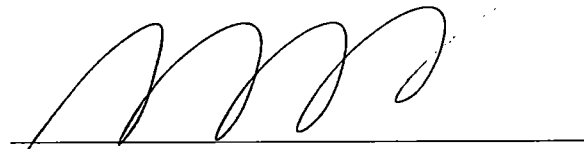
is Appellants belief that a Circuit Court Judge would know, understand, and follow all applicable statutes concerning an appeal of an ejectment from Magistrates Court.

14. Respondents Brief, STANDARD OF REVIEW, Page 5, Paragraph 3, through Page 8, Section III. Everything Respondent is presenting is not under review in this appeal. Based on Judge Hockers ruling, this is all settled matter. If respondent disagreed with Judge Hockers ruling, they should have appealed as did the Appellant in this matter.
15. Respondents Brief, Page 9, Paragraph 1. Respondent is ignoring the fact that based on Judge Hockers ruling, the lease was in fact in effect until December 31, 2016.
16. Respondents Brief, Page 9, Paragraph 3. Respondent cites South Carolina Code §32-3-10(4) and infers §32-3-10(5), but failed to state the preamble to these subsections which reads "**No action shall be brought whereby:**". There is no, nor has there been any, action of fraud brought by either party. Appellants claim is based on wording in the lease authored by Respondent, wherein Appellant is allowed a \$25.00 per month credit towards minor repairs as long as the rent was paid in a timely manner.
17. Respondents Brief, Page 10, NOTICE TO TERMINATE, through Page 11, Section V. These matters are not under review in this appeal as these arguments from the initial trial were reversed by Judge Hockers ruling.
18. Respondents Brief, Page 11, Retaliatory Conduct through Page 12, End Of Page. Although requested by Respondent, Appellant declined to vacate in 2015 as there was a valid lease (Rpp33-36) in effect. Neither Respondent or Appellant terminated the lease in 2015 in accordance with the terms stated therein, or the requirements of South Carolina Code §27-40-420(B)(2-3). Respondent then initiated two separate actions in an attempt to evict Appellant in retaliation, these actions ultimately being stopped by the courts.

Appellant notes that in Respondents RECORD ON APPEAL, #15, Respondent is trying to include a document dated months after the filing of this appeal.

Therefore, Appellant prays that this Honorable Court ignore all items brought forth by Respondent in her Brief that are outside the scope of this appeal, and grant Appellant relief as requested.

Respectfully submitted,
January 23, 2018

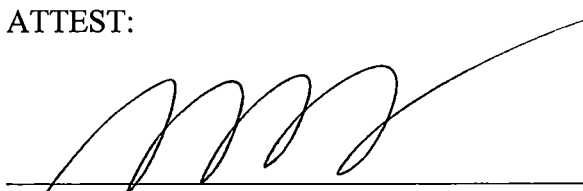


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CERTIFICATE OF APPELLANT:

I certify that Appellants Reply To Respondents Final Brief fully complies with SCACR - Rule 211(b).

ATTEST:



Gerald J. Nagy
Appellant, Pro Se

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