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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Mikell R. Scarborough, Master in Equity for Charleston County

Appellate Case No. 2013-002108

Essie B. Bryan,.....Appellant

v.

Charleston County and C.A. Roberds.....Respondents

v.

C.A. Roberds,.....Respondent

v.

Ernest Kinloch d/b/a Ernie's Restaurant,..... Third Party Defendant

**SUPPLEMENTAL RECORD ON APPEAL**

Robert L. Gailliard, Esq.  
1072 King Street, Ste. E.  
Charleston, South Carolina 29403  
(843) 577-5250  
Attorney for Appellant

Kerry W. Koon, Esq.  
147 Wappoo Creek Drive, Ste. 203  
Charleston, South Carolina 29412  
(843) 795-7000  
Attorney for Respondent C.A. Roberds

Bernard E. Ferrara, Jr., Esq.  
Lonnie Hamilton, III Public Services Building  
4045 Bridge View Drive  
North Charleston, South Carolina 29405  
Attorney for Respondent Charleston County

Joseph Dawson, III, County Attorney  
Austin A. Bruner, Assistant County Attorney  
Johanna S. Gardner, Assistant County Attorney

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rental listings in the area, including a 1300 square foot building next door to the subject property, in his professional opinion, a fair rental value would be between \$2,400.00 and \$2,900.00 per month.

Mr. Henderson testified that the first floor of the building is occupied by an operating restaurant, known as "Ernie's", is in good condition, and is sufficient for its current use. The restaurant has an "A" rating posted in a prominent place. The upper floor is not presently occupied.

Mr. Ernest Kinloch testified that he was not the owner of Ernie's Restaurant, but only the manager. He testified that his sister, Plaintiff Essie Bryan is the owner of the restaurant and that the business license is in her name. He testified that he formerly owned the restaurant for approximately 20 years and had transferred it to Ms. Bryan in about 1997. He acknowledged that the area was undergoing revitalization. He testified, that in his opinion the restaurant could afford no more than \$1,000.00 per month.

The initial demand for rent was in May of 2012. When rent was not paid, an action for ejectment was commenced by the Third Party Plaintiff in the Magistrate's Court, which was dismissed for lack of subject matter jurisdiction once this action was filed.

Based upon the evidence and testimony produced at the hearing, I make the following findings of fact and conclusions of law:

I find that the current fair rental value of the property is \$2,400.00 per month.

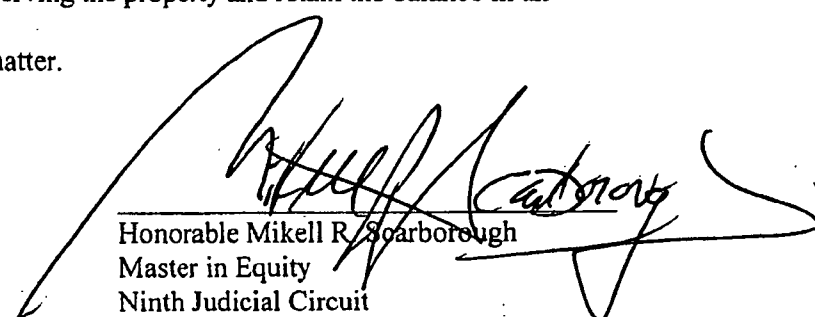
I find that an appropriate rental should be paid to the receiver, retroactive to the initial demand for payment of rent in May 2012, however, it is inequitable to require the occupant to pay the full current rental value on a retroactive basis. It is therefore,

**ORDERED** that the Plaintiff and/or the Third Party Defendant, as proprietor of Ernie's Restaurant pay rent to the receiver, in the sum of \$2,400.00 per month commencing July 1, 2013, and continuing until further order of the Court. It is further,

**ORDERED** that Plaintiff and Third Party Defendant Ernie's Restaurant pay retroactive rent at the rate of \$1,000.00 per month for the months of June 2012 through April 2013 and at the rate of \$2,000.00 per month for the months of May and June 2013 for a total of \$15,000.00. Retroactive rent shall be paid in full to the receiver within six (6) months of the date of this Order. It is further,

**ORDERED** that the receiver is authorized to deduct his Court ordered fees and reasonable expenses of managing and preserving the property and retain the balance in an account pending final disposition of this matter.

**AND IT IS SO ORDERED!**



Honorable Mikell R. Scarborough  
Master in Equity  
Ninth Judicial Circuit

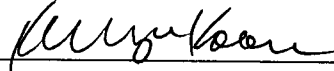
At Charleston, South Carolina  
This 19 day of August, 2013.

*Note pro Func to  
June 26, 2013*

Certificate of Counsel

The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be include by any of the parties and not any other material.

August 25, 2014



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Kerry W. Koon  
147 Wappoo Creek Drive, Ste 203  
Charleston, SC 29412  
(843) 795-7000  
*ATTORNEY FOR RESPONDENT C.A. ROBERDS*

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***PROOF OF SERVICE***

I certify that I have served a copy of the Supplemental Record on Appeal by depositing a copy of same in the United States mail, postage prepaid, on September 5, 2014, addressed to Appellant's attorney of record, Robert Gailliard, Esq. and Respondent County of Charleston's attorney of record, Bernard Ferrara, Esq., as follows:

Robert Gailliard, Esq.  
1072 E. King Street  
Charleston, SC 29403

Bernard Ferrara, Esq.  
Charleston County Attorney's Office  
4045 Bridgeview Dr.  
N. Charleston, SC 29405-7464

September 5, 2014

  
Kerry W. Koon  
147 Wappoo Creek Drive, Ste 203  
Charleston, SC 29412  
(843) 795-7000  
*ATTORNEY FOR RESPONDENT C.A. ROBERDS*