

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)
)
 Windy Hill MHP, LLC,)
)
 Plaintiff/Respondent,)
)
 vs.)
)
 Chris Holcombe,)
)
 Defendant/Appellant.)

IN THE COURT OF COMMON PLEAS

C/A: 2016-CP-04-02064

MAGISTRATE'S CASE NO.

2016CV041070057

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SC Court of Appeals

ORDER

Christopher E. Holcombe ("Holcombe") appeals the magistrate's court Writ of Ejectment issued on August 31, 2016 after a bench trial on the same date. Holcombe contends that Windy Hill MHP, LLC failed to grant him reasonable accommodations pursuant to the Fair Housing Amendments Act of 1998 at 48 U.S.C. § 3604 ("FHA") and the South Carolina Fair Housing Law at SC Code § 31-21-40 ("SCFHL") and that the trial court failed to properly access Holcombe's situation in issuing the Writ of Ejectment. I affirm.

FACTUAL/PROCEDURAL BACKGROUND

Mr. Holcombe is disabled and bound to a wheelchair. Windy Hill is managed by Karen Wagner ("Wagner"). Windy Hill and Holcombe entered into a written lease agreement governed by the South Carolina Residential Landlord and Tenant Act ("RLTA") whereby Windy Hill leased the ground to Holcombe on which Holcombe placed a mobile home that he owns. That lease terminated by its terms on July 31, 2015.

As the end of the lease term approached, Wagner sent Holcombe a letter on July 20, 2015 outlining concerns, mainly involving the actions of Mr. Holcombe's son, who is not disabled and who lived with Mr. Holcombe. On June 24, 2015, Mr. Holcombe purchased a 2.14 acre parcel of land in Anderson County, South Carolina.

Wagner had a phone conversation with Holcombe on July 25, 2015 regarding the violations. She followed up that conversation with a letter on July 30, 2015. That letter again outlined the ways that Holcombe, through his son, was being a bad neighbor and states that Wagner and Holcombe mutually agreed that it would be best if he vacated at the end of his lease and that Windy Hill would not renew the lease. The letter also states that she offered him the reasonable accommodation of 60 days past the end of the lease term to vacate. Wagner also indicated that she might allow a month-to-month accommodation if the issues outlined in the letter were resolved.

Seven months after Mr. Holcombe's lease terminated, on March 22, 2016 Windy Hill sent Mr. Holcombe a letter stating that it desired to put its own home on the property and stated that Mr. Holcombe must be out by July 31, 2016. July 31, 2016 was a full year after the end of his lease term. On June 21, 2016 Windy Hill sent Mr. Holcombe another letter reminding him that he had to be out by July 31, 2016.

Mr. Holcombe did not vacate the property and Windy Hill filed ejectment proceedings. The ejectment hearing was held on August 31, 2016. At the hearing Mr. Holcombe admitted that he had made no preparation to move and argued that he should be reasonably accommodated because of his disability and that accommodation should be that he would be allowed to remain indefinitely.

The trial court considered his discrimination/accommodation argument and found that Windy Hill had made "due accommodations" and that Holcombe failed to "show any discriminatory policy" in the ejectment. The trial court therefore granted a Writ of Ejectment giving Holcombe 20 days to move his mobile home from Windy Hill's property. Holcombe appeal's the issuance of this Writ.

STANDARD OF REVIEW

"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, 644 S.E.2d 751, 373 S.C. 240 (Ct. App. 2007).

Sections 18-7-140 and 18-7-170 give the Circuit Judge sitting in an appellate capacity the ability to make a determination in the same manner as Circuit Courts in trials without a jury and to reverse a judgment for errors of fact even though the Circuit Judge may not have had the opportunity to observe the demeanor of the witnesses. Vacation Time of Hilton Head Island, Inc. v. Kiwi Corp. 280 S.C. 232, 234, 312 S.E.2d 20, 21 (Ct. App. 1984). "The appeal shall be heard by the court upon all the papers in the case, including the testimony on the trial, which shall be taken down in writing and signed by the witnesses, and the grounds of exception made, without the examination of witnesses in court. The appeal shall be heard on the original papers and no copy thereof need be furnished for the use of the court." SC Code § 18-7-130.

LAW/ANALYSIS

The written lease between Windy Hill and Holcombe terminated by its terms on July 31, 2015. Thereafter Windy Hill had the right to recover possession of the premises by ejectment proceedings. SC Code §§ 27-40-750 and 27-40-760.

Holcombe argues that the FHA and SCFHL require that he, as a disabled person, be given reasonable accommodations for moving at the termination of his lease. He argues that this time is necessary because his lower income and lack of mobility mean that he needs more time to prepare for and afford the relocation of his mobile home, even to a lot he already owns. Holcombe offers no binding precedent for the proposition that reasonable accommodations must be made when a written lease terminates by its own terms. However, assuming that the FHA and SCFHL require such an accommodation, the “reasonable accommodation must be (1) reasonable and (2) necessary (3) to afford handicapped persons equal opportunity to use and enjoy housing.” An indefinite delay in vacating property is not a reasonable accommodation. See *McQuestion v. Crawford*, 765 N.W.2d 822, 2009 WI App 35 (Wis. App., 2009) (“To suggest that those found eligible for emergency assistance can remain indefinitely in housing from which they have been evicted could lead to serious abuse.”); *Andover Housing Authority v. Izrail Shkolnik*, 443 Mass. 300, 820 N.E.2d 815 (2005) (“This court has rejected the idea that indefinite requests for “more time” to address a disabling condition are reasonable.”); *Groner v. Golden Gate Gardens Apartments* 250 F.3d 1039 (6th Cir: 2001) (“Such an indefinite arrangement, moreover, would likely have imposed an undue administrative burden on the Golden Gate staff. Accordingly, Groner has failed to demonstrate that such an accommodation was reasonable.”); *Von Beltz v. Bentley Homes, LLC* (Cal. App., 2014) (“Von Beltz’s request that defendants accommodate her by indefinitely delaying her eviction was not reasonable as a matter of law.”). The trial court found, as does this Court, that the original 60 days, then ultimately one year, that Windy Hill allowed Holcombe to remain on the property after the written lease terminated was a reasonable, if necessary, to afford Holcombe an equal opportunity to relocate the mobile home he already owns to the lot of land he already owns.¹

Holcombe also argues that the trial court failed to make an individualized assessment of his needs. This Court disagrees. The trial court allowed Mr. Holcombe to both testify and summarize his position about his lack of income and the heightened requirements for relocating a mobile home customized for his disability. The trial court clearly considered these issues, along the facts that Windy Hill was entitled to repossession after ejectment proceedings based on the termination of the written lease, the year that Windy Hill had accommodated Holcombe past the termination of the written lease and the fact that Mr. Holcombe purchased a lot a year prior to the ejectment hearing. After considering Holcombe’s arguments and the facts and the law, the trial court concluded, as does this Court, that Holcombe had been reasonably accommodated and there was no discrimination of Holcombe for failure to accommodate.

¹ The Court notes that because of this appeal Holcombe had now had an additional 15 months, for a total of 27 months past the termination of the written lease, to make arrangements to move his mobile home.

CONCLUSION

Based on the above analysis, the magistrate's court Writ of Ejectment is AFFIRMED and Mr. Holcombe has 20 days from the date of this ORDER to voluntarily vacate the property.

IT IS SO ORDERED!



Anderson Common Pleas

Case Caption: Christopher E Holcombe VS Windy Hill Mhp Llc

Case Number: 2016CP0402064

Type: Order/Other

S/R. LAWTON McINTOSH

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