

PETITON FOR STAY AND SUPERSEDEAS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Charleston County North Area Magistrate 3
Magistrate Joanna Sumney

Case No. **2019CV1011401500**

BACCO, LLC

Respondent,

v.

Gary Weesner c/o Freedom
Transmissions Plus, LLC

Appellant.

Petition for stay and supersedeas

Per Rule 241 I am filing for petition for stay and supersedeas during my appeal due to the reasons below.

Landlord-BACCO, LLC
Tenant-Freedom Transmissions Plus, LLC

1. Original Eviction and Writ of Ejectment should have been dismissed pursuant 27-37-155(4). If the amount of rent due is determined at Final adjudication to be less than alleged by landlord, decision must be entered for the tenant if the court determines that the tenant has complied fully with the provisions of Section 27-37-150, this section, and the lease agreement. Landlord gave a credit, which was an incorrect lesser amount of what tenant is still due to this day. Rent was paid in full at time of partial incorrect credit.

Brief synopsis

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1. Landlord gave tenant extra time to pay rent and late fees. Landlord agreed to accept final payment on May 17. Landlord then refused tenants offer to drive to North Carolina to hand deliver final payment to landlord or tenants offer to Western Union the funds. Landlord did not act in good faith by denying the tenant the ability to pay the final rent payment per agreement. This refusal has set into motion an eviction that should have been dismissed in May because tenant was owed a credit towards rent which if applied correctly by the Magistrate, tenant would have had a zero rent balance.
2. Even though rent should have been considered paid in full by tenant, an eviction was filed by landlord and a warrant of ejectment was filed May 28. Tenant filed for bond to stay on execution on May 31. Tenant tries to speak with Magistrate Sumney regarding rent being paid and Sumney Magistrate printed copy of landlord tenant laws and told tenant to read them.
3. Bond to Stay hearing was heard on June 10. Tenant paid the rent via PayPal on July 10, by the due date stated on the bond form. The morning of July 10, Magistrate Sumney ordered dismissal of bond to stay, stating that tenant refused to pay rent. This was untrue, tenant paid rent July 10 per bond order.
4. Tenant appealed to Circuit Court and case was heard August 27 by Honorable Roger King. Judge King sent the bond to stay back to Judge Sumney to correct the conflicting sentences regarding due dates for bond to stay.
5. Sept 16. Hearing with Magistrate Sumney to correct conflicting statements in the Bond to Stay order written by Magistrate Sumney, per request of Judge King. Tenant argued that tenant should not have to pay late fees, due to conflicting language written in the Bond to Stay order by Judge Sumney. Tenant was charged late fees by Magistrate Sumney due to Magistrate conflicting statements on Bond to Stay.
6. Tenant appealed the Bond to Stay to the Circuit Court. Court date was scheduled for Oct 7 at 1100. Tenant went to court and was told at the end of sitting through other hearings that tenant was not on the docket.
7. Tenant has appealed with Court of Appeals the writ of ejectment and Magistrate Sumneys dismissal of tenant appeal to Circuit Court for Bond Modification.

1. Credits Tenant is owed by landlord that were not applied fully by Magistrate.

- a. Refund on overpayment of CAM. Full amount was not applied. Tenant is owed approximately \$1,000.
- b. Credit for parking lot. Landlord agreed to pay \$2,000 towards parking lot improvements. Tenant received quotes for various types of driveways and parking lots. Landlord agreed to allow tenant to have ROC delivered for driveway. Once tenant moved into building landlord asked tenant to hold off on having material delivered. When tenant asked numerous times about drive/parking lot funds, tenant was put in perpetual delay. Tenant paid \$1,600 to have parking lot grazed because tenant could not wait any longer. Tenant was denied access through main building parking lot for both employees/customers and tenants drive/parking lot turned into a giant mud hold from rain and insufficient materials in the area.
- c. Tenant was charged for solid waste disposal when tenant had their own solid waste container and account. Tenant was owed a refund for this.
- d. Tenant charged for water. Tenant owed refund for water. Only running water provided was a water hose spicket for almost one year.

Landlord not acting in good faith during eviction process and lease.

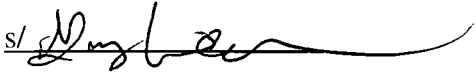
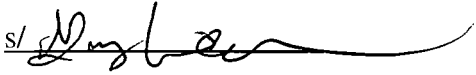
1. Numerous incorrect balance sheets were presented to tenant. Tenant had to correct landlords math and the tenant actually advised the landlord that the landlord was not charging enough on the final balance sheet. Landlord either deliberately or by accident caused mass confusion by constantly delivering incorrect balance sheets. Incorrect balance sheets provided by landlord caused tenant to believe that tenant only owed.
2. Landlord failed to deliver timely roughed in plumbing and separate office building shell as noted in the lease. Instead of delivering what was required of landlord per lease, landlord delivered a mobile office that looked like a semi truck trailer and a porta potty. This affected not only the appearance of Freedom Transmissions business but also the hygiene and safety of customers and employees. Employee's and customers had to wash hands with a garden hose. Landlord was to deliver roughed in plumbing and separate office building within 30 days of signing of lease. After between nine to ten months of requesting these items, tenant finally settled on another portable building type and roughed in plumbing of the portable building.
3. Landlord employed individuals who were rude to my customers and called a customer a racist slur. Landlords employee ran off customers and cable installer. Employee locked a customer between two gates at one point. This also affected not only my business but the right to peaceful enjoyment of the property.

4. Retaliatory eviction. Landlord failed to deliver timely roughed in plumbing and separate office building shell as noted in the lease. Tenant asked for the separate office building via personal phone calls, emails, and text numerous times. Shortly after tenant sent a certified letter stating landlord was in violation of lease by providing the separate office and roughed in plumbing, landlord filed for eviction. Tenant had no office or bathroom for almost a year. Tenant has also been informed that landlord is wanting to move a different tenant in for a higher rent amount.

I want to pay the correct rent amount and proceed for the remainder of the lease. I should not have to pay late fees due to the Magistrate improper wording on the Bond to Stay and the fact that the landlord returned the rent. I should not be evicted during my appeal to Court of Appeals due to Magistrate not giving tenant the proper credits that tenant is allowed per lease and agreement with landlord.

I have served all parties involved in this case via US Postal Mail.

October 14, 2019


s/ 
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