

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
Gilbert Clinton Gee and Lourdes)
S. Gee,)
)
Appellants,)
)
vs.)
)
Signature Sales Group, LLC,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
Case No.: 2021-CP-07-01129

ORDER RECEIVED
JAN 19 2022
SC Court of Appeals

On June 7, 2021, the Bluffton Magistrate Court issued a judgment of ejectment directing Appellants to vacate the premises located at 104 Cordillo Parkway, Unit N-6, Hilton Head Island, SC 29928. Appellants timely appealed the judgment of ejectment to this Court. By agreement of the parties, the Court conducted a remote hearing on this appeal on December 17, 2021, via Webex. Present at the hearing were Appellants, *pro se*, and Kathleen McDaniel, Esq., for Respondent Signature Sales Group, LLC.

Clinton Gee was an independent contractor with Respondent. Pursuant to the terms of the Occupancy Agreement, Appellants were permitted to reside at the subject premises while Clinton Gee working with Respondent. Respondent terminated Clinton Gee's independent contractor agreement, and on February 12, 2021, Respondent hand-delivered a Notice to Vacate to Clinton Gee. Appellants did not vacate the premises, and Respondent filed an Application for Ejectment. On May 5, 2021, the Bluffton Magistrate conducted a Rule to Show Cause or Vacate hearing. Both Clinton Gee and Lourdes Gee appeared at the hearing and contended that Lourdes Gee had not been properly served with the Notice of Eviction.

Respondent amended the Application for Ejectment to include Lourdes Gee and taped the Notice to Vacate to the door of the premises on May 5, 2021. A second Rule to Show Cause or Vacate hearing was held on June 7, 2021. Both Appellants appeared at that hearing and stated that they intended to move out of the apartment. The Bluffton Magistrate granted the Writ of Ejectment, and the Beaufort County Sheriff's Department served the Writ of Ejectment on Appellants on June 18, 2021.

Appellants filed this appeal on June 21, 2021. The sole issue presented on appeal is whether Lourdes Gee had notice of the Notice to Vacate.

Appellants contend that S.C. Code Ann. § 27-40-240(B)(3) requires notice by hand delivery or registered or certified mail. Section 27-40-240 states:

- (A) A person has notice of a fact if:
- (1) the person has actual knowledge of it;
 - (2) the person has received a notice or notification of it; or
 - (3) from all the facts and circumstances known to him at the time in question he has reason to know that it exists. A person "knows" or "has knowledge" of a fact if he has actual knowledge of it.
- (B) A person "notifies" or "gives" a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when:
- (1) it comes to his attention; or
 - (2) in the case of the landlord, it is delivered at the place of business of the landlord through which the rental agreement was made or at any place held out by the landlord as the place for receipt of the communication; or
 - (3) in the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to the tenant at the place held out by him as the place for receipt of the communication, or in the absence of the designation, to the tenant's last known place of residence. Proof of mailing pursuant to this subsection constitutes notice without proof of receipt.

Appellants argue that the only way that Lourdes Gee could have been given notice of the eviction was through hand-delivery or registered or certified mail as set out in subsection (B)(3). However, subsection (B)(1) provides that a person receives notice when it comes to her attention. Subsection A further provides that a person is on notice if they have actual knowledge of a fact.

Lourdes Gee not only knew that Respondent was going to file the Application for Ejection, but she also appeared in person at the first Rule to Show Cause hearing. After Respondent taped the second Notice to Vacate to the door of the premises, Lourdes Gee again appeared in person at the second Rule to Show Cause hearing with counsel. There can be no dispute that Lourdes Gee had actual knowledge of the Notice to Vacate and that it had come to her attention as of May 5, 2021. Accordingly, Lourdes Gee had notice, sufficient under Section 27-40-240, of the Notice to Vacate 30 days prior to the second Rule to Show Cause or Vacate hearing. Therefore, this Court upholds the Bluffton Magistrate's issuance of the judgment of ejection against Appellants and denies Appellants' appeal.

At the appeal hearing, the parties agreed that Appellants would vacate the premises on or before Monday, January 17, 2022. Accordingly, it is hereby ordered that Appellants have until January 17, 2022, to vacate the premises. If Appellants have not vacated the premises by January 17, 2022, the Beaufort County Sheriff's Department shall serve the Writ of Ejection on January 18, 2022, and 24 hours later effectuate the ejection, if necessary.

AND IT IS SO ORDERED.



Beaufort Common Pleas

Case Caption: Gilbert Clinton Gee , plaintiff, et al VS Singature Sales Group Llc
Case Number: 2021CP0701129
Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

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