

FORM 13
BRIEF OF APPELLANT
February 14th, 2022
THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Marvin H. dukes, III, Beaufort County Master in Equity and Special Circuit Court Judge

Case No. 2022-000045

Gilbert Clinton Gee and
Lourdes S. Gee
Pro-Se

Appellants,

v.

Kathleen N. Mc Daniel
Attorney for Signature Sales
Group, LLC

Respondent.

INITIAL BRIEF OF APPELLANT

Gilbert Clinton Gee
33 Office Park Road, # A-201
Hilton Head Island, South Carolina 29928
(843) 802-9511

Lourdes S. Gee
33 Office Park Road, # A-201
Hilton Head Island, South Carolina 29928
(843) 802-9511

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TABLE OF AUTHORITIES

CASES

1. Linsey v. Normet, 405 U.S. 56, 69 (1972).
2. Mathews v. Eldrige, 424 U.S. 319 (1976).

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1. Section 27-40-240, S.C. Code of Laws, Ann.
2. Section 27-40-770, S.C. Code of Laws, Ann.

OTHER AUTHORITIES

1. The 5th Amendment of the United States Constitution.
2. The 14th Amendment of the United States Constitution.

STATEMENT OF ISSUES OF APPEAL

Procedural due process clause, requirements with respect to Section 27-40-240, S.C. Code of Laws, Ann and Section 27-40-770, S.C. Code of Laws, Ann.

STATEMENT OF THE CASE

Procedural due process. Defect. Respondent/landlord files an action for eviction prior to delivering the thirty-day notice to quit. Notice does not comply with statutory requirements of service to tenant as defined by 27-40-240, S.C. Code of Laws, Ann.

STANDARD OF REVIEW

1. Section 27-40-240, S.C. Code of Laws, Ann.
2. Section 27-40-770, S.C. code of Laws, Ann.

FACTS/ARGUMENTS

1. Section 27-40-240, S.C. Code of Laws, Ann. (B) (3).

In the case of a 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. The South Carolina legislature, in drafting the requirements for service, set forth a "rules of procedure" to assure that there is a clear understanding as to the time frame in which the tenant must leave, but also the penalties, i.e. that a lawsuit will be initiated if the tenant does not leave by a certain date. The Circuit Court, in the order dated January 4th, 2022, imputed service to the appellant(s)/tenants by misreading of 27-40-240, S.C. Code of Laws, Ann. (B) (3). Notice can occur in many ways as defined by the statute. However, there is a specific requirement as to how it is delivered with respect to the landlord and the tenant. Therefore, we believe the Court erred.
2. Section 27-40-770, S.C. Code of Laws, Ann.

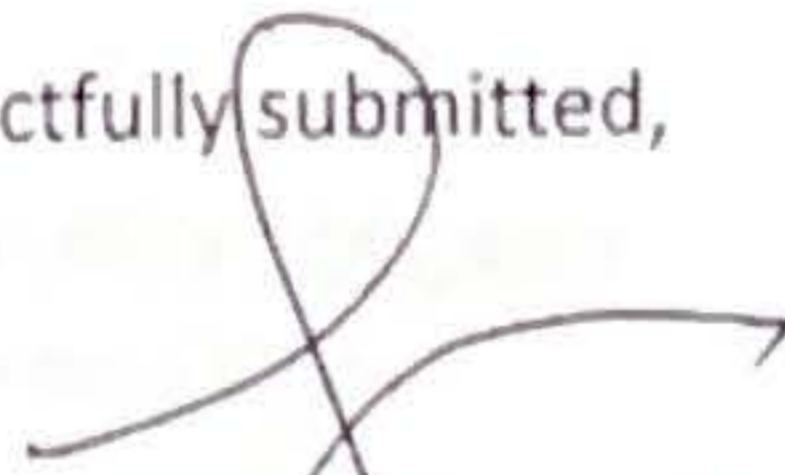
The landlord or tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty days before the termination date specified in the notice. Respondent (landlord) filed the amended complaint, adding the tenant Lourdes S. Gee on May 5th, 2021. Later in the afternoon of May 5th, 2021, respondent (landlord) attempted to serve appellants (tenants) the thirty-day notice to quit/vacate. Rendering the notice moot. Tenants were entitled to thirty days in order to make arrangements to leave and vacate the property prior to the filing of the lawsuit for the unlawful detainer/eviction. The thirty-day notice is designed to allow the tenant the time in which to vacate the property prior to the filing of the lawsuit for eviction in the public record. Recognizing that a lawsuit for eviction in the public record carries substantial and long-term damages to tenant with regards to future credit as well as renting or purchasing subsequent property. Therefore, the thirty-day notice is a necessary element to quit.

CONCLUSION

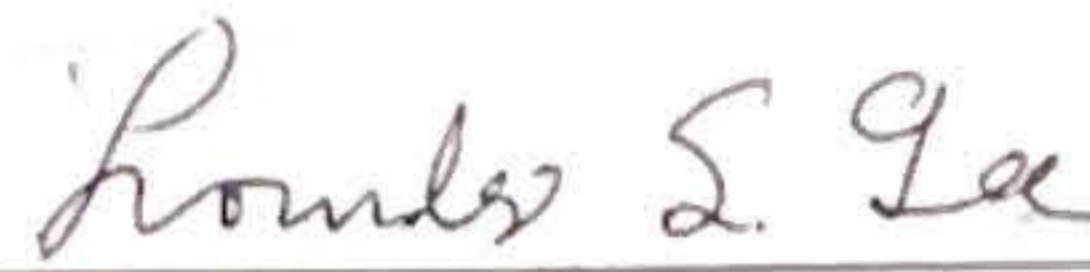
In conclusion, for the reasons stated above, we pray the Court to set aside the order from the Circuit Court dated January 4th, 2022 and remand this matter back to the Magistrate Court for proper disposition.

February 14th, 2022

Respectfully submitted,



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