

FILED

IN THE MUNICIPAL COURT OF ATHENS COUNTY, OHIO ATHENS COUNTY MUNICIPAL COURT

MAY 21 1993

Spreading Oaks Village,

Plaintiff,

Case No. 93 CVG 4-22

CLERKS OFFICE
ATHENS COUNTY, OHIO

vs.

Bonnie L. Scruggs aka,
Bonnie L. Miller, et al.,

Defendant.

JOURNAL ENTRY DECISION ON
COMPLAINT

This cause came on for trial on the Complaint seeking a writ of restitution and, for the reasons set forth below, the Court finds for Defendants on Plaintiff's Complaint.

Plaintiff seeks Defendants' eviction on two grounds. First, Plaintiff seeks to terminate Defendants' periodic tenancy. Secondly, Plaintiff seeks Defendants' eviction on the grounds of non-payment of rent, specifically for the months of April and May, 1993.

This Court reads Schwartz v. McAtee, 22 Ohio St. 3d 14 (1986) as specifically not allowing termination of periodic tenancies in a manufactured home park setting, as this is inconsistent with Ohio law. Ohio Rev. Code Chapter 3733.

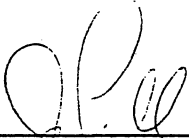
Furthermore, this Court endorses, somewhat reluctantly, the reasoning in Mazzarella v. McGinnes, No. 91-CVG-30291 (Muni. Ct. Cleveland, 1991). This Court therefore finds that a tenant must be afforded a reasonable opportunity to offer the rent accrued during the pendency of a prior eviction case before being served with a new eviction notice alleging non-payment of rent.

Upon the foregoing, the Court finds for Defendants and dismisses Plaintiff's Complaint. Costs to Plaintiff.

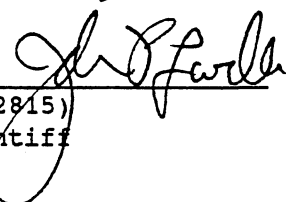
Clerk is directed to forward copies of this Entry to parties of record pursuant to Civ. Rule 58(B).

Douglas J. Bennett, Judge

PREPARED AND SUBMITTED BY:


John Pembroke (0019079)
Southeastern Ohio Legal Services
Attorney for Defendant Bonnie L. Miller

SEEN AND APPROVED AS

TO FORMERLY 
John Lavelle (0002815)
Attorney for Plaintiff

DIRECTION TO CLERK
PER CIVIL RULE 58 (B)