

After beginning the hearing, it became apparent to the Referee that Marino Milano was not prepared to prove an element of his case, that must be proven to give the Court jurisdiction to proceed with the hearing. Without request by Mr. Milano, and without giving Attorney Mayer an opportunity to object, the Referee offered Mr. Milano a continuance until later the same day, or the next day.

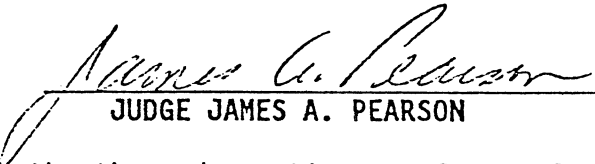
Mr. Milano had chosen to represent himself without benefit of counsel. The Court feels he should have been treated the same as if he had counsel. The Referee should not have assisted him in the presentation of his case to the detriment of opposing parties. The Court should remain totally impartial. If a self-represented party fails to prove his case because of ignorance of the legal requirements, then the case should be judged on the evidence that is, or is not, produced.

Neither Mr. or Mrs. Milano testified as to whom the premises was rented. The Referee had no evidence upon which to base a finding as to who was the "main defendant". Vickie Jones has attached a copy of a receipt dated April 29, 1989, and signed by Angelina Milano. The receipt indicates \$200.00 was received from Vickie Jones for rent of 1563 Tremont Avenue.

The Report of the Referee is hereby adopted in accordance with Civil Rule 53 as to the only defendant in this case.

Judgment is granted on the first cause of action for possession of the premises as to Jerry Jones only.

The exceptions to the Referees Report are sustained as to the findings and recommendations of the Referee relative to Vickie Jones, and the bailiffs of this Court are hereby prohibited from removing either Vickie Jones or any of her possessions from the premises known as 1563 Tremont Avenue, Columbus, Ohio, until an action is filed naming her as a party defendant and judgment granted in that action.


JUDGE JAMES A. PEARSON

Note: Angelina Milano testified she served the three day notice on Jerry Jones by unlocking the door and handing the notice to Vickie Jones. This was uninvited and in violation of the landlord tenant law, which could subject plaintiffs to damages.

Copies mailed to the following:

Marino and Angelina Milano
1320 Westwood Avenue
Columbus, Ohio 43212
Plaintiffs

Donna C. Mayer, Esq.
40 West Gay Street
Columbus, Ohio 43215
Attorney for Vickie Jones

JAP/tjs
7-7-89

JUN 7 1989

Petition In F E & D & Complaint in Civil
Action filed, and summons issued.

JUN 9 1989

SUMMONS TO DEFENDANT
BY MAIL FILED WITH COURT
OF COMPLAINT

DEPUTY CLERK

JUN 28 1989

REFeree's REPORT

THE LEGAL AID SOCIETY OF COLUMBUS

AND

D. Mayer

APPEARED ON BEHALF OF DEFENDANT(s). Vicky Jones

The present.

Counsel for Vicky Jones requests a continuance on the basis of a telephone call from that person stating that she could not be in court today because she just had a baby.

The referee notes that the named defendant out in this case is Jerry Jones, who, presumably is the husband of Vicky Jones. No reason appears why Jerry Jones, who has been properly served, is not present.

The request for a

Continuance is denied

The case is resumed to permit the attendance of Angelina Milano, who is a plaintiff, and who served the 3-day notice according to plaintiff, Marino Milano, to testify.

When the hearing is resumed, counsel for Vicky Jones for the first time raises the question of the jurisdiction of the court over the person of Vicky Jones, on the basis that she is a known occupant but was not specifically named a party. The referee rules that the defect was waived by counsel's failure to raise it before requesting a continuance on behalf of her client.

Based on the plain sworn testimony, the referee finds that plaintiff Angelina Milano, an owner of

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the property in question, served a valid 3 day notice ^{on} of defendant Jerry Jones, through his wife Vicky, on May 2 or May 3, by personally handing it to her (a copy of the notice ~~complaint~~ is attached to the complaint); the referee further finds that defendant Jerry Jones at that time owed ^{past due} rent for the subject premises; the referee finds that Jerry Jones and his family still owe rent and that they are still in possession, under an oral month to month lease.

The referee notes for the record that counsel for Vicky Jones was offered an opportunity and declined to cross examine.

The referee concludes

that plaintiff's bar proves a right to possession of the subject premises by a preponderance of the evidence, and the referee ~~recommends~~ recommends judgment for plaintiff on the first cause of action for possession of the premises, and costs Costa Plus interest.

Notify parties.