

IN THE MUNICIPAL COURT OF AKRON
SUMMIT COUNTY, OHIO

JENNIFER BARTOLETTA TIPPER

PLAINTIFF

v.

JACK RECKLAW & TAMMIE WADE
& Occ.

DEFENDANT

) CASE NO. 2001 CVG 11482

)

)

) MAGISTRATE'S DECISION

) WITH FINDINGS OF FACT

) AND CONCLUSIONS OF LAW

)

)

)

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The following facts were determined: 9:35 AM

1) This case was set for hearing before the Magistrate on the 10th day of January, 2002. The Plaintiff (was) (was not) in court (with) (by) counsel. The Defendant (was) (was not) in court (with) (by) counsel.

2) Plaintiff (was) not found to have a possessory interest in the premises as set forth in the complaint, as owner/lessor/lessee's (agent) for: 1532 Manchester Road, Akron, Ohio, other: _____

3) Tenancy pursuant to (lease) (Section 8 lease) (month to month) (other): _____. Rent per month is \$ \$410.00. Rent last received on November 3, 2001 for November 2001. Rent is due on 1st of each month.

4) A lawful statutory notice (was not) properly served on the Defendant(s) on December 8, 2001, which was not at least three (3) days before the complaint was filed. (hand delivered) () (certified mail) () (posting at premise) () (copy served on AMHA).

5) Facts entitling (plaintiff) (defendant) to judgment:
ORC Sec.5321.17B states that in order for a landlord to terminate a M/M tenancy the 30 day notice must be given at least 30 days prior to the periodic rental date. Plaintiff's 30 day notice was served on Nov.7, 2001, but the periodic rental date was either Nov.1 or Dec.1. By serving defendant Nov.7. the notice was not effective until Jan.1,2002. Accordingly, plaintiff's 3-day notice was premature and this court is who jurisdiction. It is the decision of the Magistrate that a writ NOT BE allowed. It is my further decision that the second cause be continued.

Thomas Lynett
MAGISTRATE
Thomas F. Lynett

FILED
10 19
AM '02

JUDGMENT ENTRY

The decision of the Magistrate is approved. It is the judgment of the Court that a writ of restitution MAY NOT issue. Costs to be paid by the (plaintiff) (defendant).

January 31, 2002
DATE

Lynne S Callahan
JUDGE