

STATE OF OHIO)
 SS:
STARK COUNTY)

IN THE CANTON MUNICIPAL COURT

CASE NO. 82 CVG 1881

PLEASANT VIEW MOBILE :
HOME COURT, INC. :

Plaintiff :

-vs-

JUDGMENT ENTRY

MELODY PRICHARD :

Defendant . :

This matter came on to be heard on the motion of the Defendant to dismiss the Plaintiff's complaint in forcible entry and detainer. The Defendant moved to dismiss the complaint on two grounds i.e. (1) the court lacks jurisdiction over the claim and (2) the complaint fails to state a claim upon which relief can be granted.

Forcible entry and detainer is a remedy which is purely statutory. It provides a speedy and extraordinary remedy for the recovery of the possession of real estate in the cases especially enumerated in Ohio Revised Code Section 1923.02.

Upon review of the record, the Court finds that the Plaintiff is a corporate trailer park seeking recovery of a mobile home located at 3501 Root Ave. N.E., Canton, Ohio. The complaint was brought pursuant to chapter 1923 of the Revised Code. Section 1923.02, which covers persons subject to forcible entry and detainer, provides in part as follows:

"A. Proceedings under Chapter 1923 of the Revised Code may be had:"

(10) "Against house trailer tenants who have defaulted in the payment of rent or breached the terms of a rental agreement with a trailer park operator."

EXHIBIT K

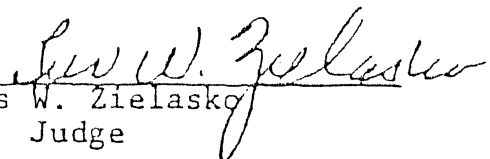
In addition, statutory provisions concerning forcible entry and detainer proceedings affecting trailer parks must be read in light of R. C. Chapter 3733 which governs a trailer park operator's right to evict.

On examination of the complaint, the Court finds one single statement stated as the alleged ground for eviction, namely; Plaintiff says there is destruction of property by Defendant's children.

Thus, the absence of allegations required by Revised Code 1923.02 (10) and Revised Code 3733.091 are fatal to Plaintiff's cause of action. The complaint in its present form fails to state a cause of action upon which relief can be granted in forcible entry and detainer.

The Court finds the Defendant's claim as to the applicability of Civil Rule 6 (A) to be without merit. (See Civil Rule 1 (C) and 67 O.J. 2nd 129.)

Defendant's motion to dismiss on ground that Plaintiff's complaint fails to state a claim is sustained. It is hereby Ordered that the complaint be and hereby is dismissed with leave to file an amended complaint by June 16, 1982.


Gus W. Zielasko
Judge

Dated: May 28, 1982
cc: Atty. L. Martindale
Atty. M. Marous