

SANDUSKY COUNTY COURT, DISTRICT #1, CLYDE, OHIO

PAT TEA, dba  
TOWN & COUNTRY ESTATES

vs.

Case No. 86 CVG 42  
DECISION & JUDGMENT ENTRY

SANDRA WILHELM

This case came on to be heard on July 16, 1986 upon the complaint of the plaintiff for eviction of the defendant.

Plaintiff served the defendant with a 30 day notice to leave premises on or about March 21, 1986. No reasons were given for termination. On or about May 1, 1986 the defendant was served with 3 day notice to leave, claiming defendant had become a holdover tenant by virtue of ignoring the earlier 30 day notice. The complaint was filed by plaintiff on May 7th, and amended on June 9, 1986, alleging violation of park rules, specifically failure of parental supervision, noncompliance with the curfew hours by defendant's child, and cutting across yards of other tenants in the trailer park.

Upon hearing the testimony, the court finds that the defendant has in fact violated the rules of the park in that the child, Brett Wilhelm, was seen in the common areas of the trailer park on numerous occasions beyond the curfew hour. However, there are problems with this case which the plaintiff has failed to overcome. One, there is the question of notice of the park rules. The statute requires that the rules, if amended, be served on all park tenants and be conspicuously posted somewhere on the park grounds. There was no testimony that the rules have been conspicuously posted. Two, the court finds that the rules were arbitrarily enforced in that no eviciton action has been brought against the family of Adam Hatfield, a child who also seems to regularly violate the curfew hour. Three, the statute which controls seems to require a written notice of the alleged park rule violation with 30 days to cure on the part of the tenant. O.R.C. 3733.13.

The court appreciates the frustrations involved in this case. However, the court must make an effort to follow the case law and in this case the Supreme Court decision of Schwarts v. McAtee, 22 Ohio St. 3rd, 14 is nearly on point. There are still questions to be answered relative to procedure regarding evictions from trailer parks. This court will follow the requirements as set forth in the Schwartz case, i.e. written notification with 30 days to cure. Failure to cure, or a subsequent rule violation more than 30 days after the written notification would be sufficient to create a holdover tenancy, thus triggering the forcible entry and detainer statutes.

The court further appreciates that this approach permits the tenant one big bite out of the apple, i.e. a rule can be violated with no repercussion. A second bite can be fatal if the landlord serves proper notice.

Plaintiff's complaint is dismissed.

FILED  
SANDUSKY COUNTY COURT  
DISTRICT #1

1986 JUL 18

ALBERT L. ...  
CLERK

