

IN THE CLEVELAND MUNICIPAL COURT  
CUYAHOGA COUNTY, OHIO  
HOUSING DIVISION

MILLER MOBILE HOMES INC.	)	CASE NUMBER 92 CVG 15699
	)	
PLAINTIFF	)	
	)	
vs.	)	<u>JUDGMENT ENTRY AND OPINION</u>
	)	
KATHRYN DENARDY	)	
	)	
DEFENDANT	)	

This is an action in forcible entry and detainer to recover possession of residential premises consisting of a lot located within a manufactured home park. This case was heard by a referee who recommended judgment in favor of the plaintiff for restitution of the premises, which recommendation was adopted and approved by this court. Defendant filed objections to the referee's report and a motion for new trial. Counsel for each party presented argument on these motions on August 27, 1992. The facts stated hereafter are obtained from the briefs of the parties and are not in dispute. Plaintiff is the park owner of a manufactured home park located at 8125 Russell Lane, Cleveland, Ohio, as the terms "park owner" and "manufactured home park" are defined at Revised Code 3733.01(M) and (A), respectively. Defendant is the owner of a manufactured home as the term "owner" is defined at Revised Code 3733.01(K).

Plaintiff entered into a written rental agreement with defendant for lease of the lot located at 8216 Russell Lane, Cleveland, Ohio located in plaintiff's manufactured home

park. In addition to the terms of the written lease, defendant's tenancy is subject to park rules promulgated by plaintiff. Rule 4(A) of plaintiff's Rules of Regulations states:

(4) (A) NO DOG, CATS OR OTHER ANIMALS PERMITTED.

No other park rule specifically addresses the issue of pets.

Plaintiff filed this action against defendant for her breach of the "no pets" rule. Plaintiff served defendant a thirty day notice of violation on or about April 28, 1992, followed by a three day notice to vacate on June 25, 1992. On July 1, 1992, plaintiff filed this action.

Defendant is over 55 years old, and lives alone with two cats. Her cats are confined to the manufactured home and are not permitted to roam outside. Plaintiff has not recommended complaints from neighbors regarding the cats, noise, or odors caused by the cats.

Plaintiff has not observed the cats outside the manufactured home lot. Revised Code 3733.11(C). The rules, however, shall not be unreasonable, arbitrary or capricious. Id. The issue in this case is whether plaintiff's park rule prohibiting pets is arbitrary or unreasonable, and thus unenforceable against defendant.

Plaintiff undeniably has a significant interest in providing a safe, sanitary park in which residents are allowed quiet enjoyment of their premises. Unlike the typical landlord/tenant scenario, however, plaintiff does not have an interest in the maintenance of the interior of the manufactured home, which is owned by defendant, except as it

impacts on the park environment. Also to be considered is defendant's interest in the company of her pets, which may be "loved and cared for on the same level as...family members" Leichtman v. Fike, No. 1106 (Ct. App. Geauga County April 27, 1984), Slip op. at 2.

Plaintiff enacted the "no pets" rule, by its own admission, out of concern for pets at large or in lot at the park, attracting wild animals, posing a threat to the health and safety of the residents. The rule as drafted, banning all pets, is overbroad as it forbids all pets, not merely those that are permitted to run free, contributing to the above-described problems. It is also arbitrary, as it fails to distinguish between indoor pets, as in this case, and outdoor pets whose impact on the park differs significantly. The park rule regarding pets could easily be drafted more narrowly to achieve the ends sought, while not unnecessarily limiting the pet ownership of defendant and other owners. An absolute pet ban is an unnecessary, unreasonable rule which lowers the quality of life of the residents of the park. Leichtman v. Fike, supra, Slip op. at 2. As a result, plaintiff's rule is unenforceable against defendant.

This court having granted restitution to plaintiff based on defendant's violation of the "no pet" rule, now finding plaintiff's rule in violation of Revised Code 3733.11(C), sustains defendant's objections to the referee's report and reverses the judgment on the first cause of action. Judgment for defendant on plaintiff's first cause action.

  
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JUDGE WILLIAM H. CORRIGAN  
HOUSING DIVISION