

IN THE ZANESVILLE MUNICIPAL COURT

RANDALL L. TOMPKINS, :
Plaintiff, : Case No. 93-CVG-01097
vs. :
TANGELA GOINS, :
Defendant. : JUDGMENT ENTRY

This cause came on for hearing on December 7, 1993 upon Defendant's Motion to Vacate the judgment entered by this Court on November 22, 1993. Plaintiff was present in Court and represented himself, pro se. Defendant was present in Court with her attorney, Robert R. Romaker. The Court heard testimony from Plaintiff, Sally Tompkins on behalf of Plaintiff, and Defendant.

Defendant, through counsel, moved to quash service of the summons and complaint because the summons and complaint were served by "doorknob service," which is not proper service under Civil Rule 4.1(3), Revised Code Section 1923.06(A), and other applicable law. Defendant renewed her Motion to Vacate Judgment due to the "doorknob service." Additionally, Defendant, through counsel, moved to dismiss the complaint because Defendant was not served with a notice to leave the premises or, in the alternative, even if said notice was served by regular U.S. mail, as Plaintiff argued, such manner of service was not permitted by Revised Code Section 1923.04.

The Court FINDS that the summons and complaint were served by "doorknob service," that such service is not permitted under the Civil Rules, and that this Court therefore lacks personal jurisdiction over Defendant. Further, this Court HOLDS that, even if Defendant was served with a notice to leave the premises by regular U.S. mail, this manner of service is not permitted under Revised Code Section 1923.04. That is, R.C. Section 1923.04 states that the notice to leave the premises shall be served by certified mail, or by handing a written copy of the notice to the Defendant in person, or by leaving at his usual place of abode or at the premises from which the Defendant is sought to be evicted; the statute does not permit service by regular U.S. mail.

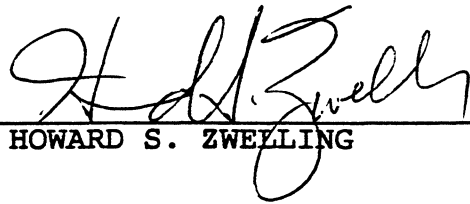
The Court HOLDS that proper service of the notice to leave the premises is a jurisdictional prerequisite to the commencement

of a forcible entry and detainer action. Associated Estates Corp. v. Bartell, 24 Ohio App.3d 6 (1985). Since the Plaintiff has failed to properly serve a notice to leave the premises upon the Defendant, this Court lacks subject matter jurisdiction in this case.

For the foregoing reasons, IT IS ORDERED that Plaintiff's complaint be and hereby is DISMISSED without prejudice.

Costs are assessed to Plaintiff.

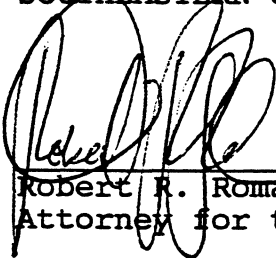
IT IS SO ORDERED.



JUDGE HOWARD S. ZWELLING

APPROVED:

SOUTHEASTERN OHIO LEGAL SERVICES



Robert R. Romaker
Attorney for the Defendant

cc: Randall L. Tompkins, Plaintiff
Robert R. Romaker, Attorney for Defendant