

# IN THE LICKING COUNTY MUNICIPAL COURT

FILED

Bart D. Romine, 1998 SEP -3 AM 9:48

Plaintiff,

v.

John Winters, et al.,

Defendants.

Case No. 98-CVG-00907

## JUDGMENT ENTRY

This matter is before the Court this 28th day of August, 1997 for forcible entry and detainer hearing. The Court finds Plaintiff's Complaint was filed August 10, 1998. Plaintiff presented testimony to show the three -day notice was served August 5, 1998. Plaintiff presented testimony that rent had not been paid before the three-day notice was served.

Defendant presented evidence to show that there was no written lease and that the Defendant paid rent when Plaintiff came to pick up the rent. Plaintiff had never had rent mailed or demanded strict payment on the first. Plaintiff had always gone to Defendant's home or business to pick up the rent.

In the present instance with the allegation being non-payment of rent for the month of August, the uncontroverted testimony was that Plaintiff never came to Defendant's home or work or called to pick up the rent.

Accordingly, the Court finds Plaintiff has failed to show non-payment of rent given the course of conduct of having picked up the rent and Defendant being ready, willing and able at all times to pay rent. Accordingly, the Court finds Plaintiff's first claim for forcible entry and detainer to be not well taken. Plaintiff's Complaint is DISMISSED. Costs to Plaintiff.

Judge  
Michael F. Higgins

Judge  
Thomas M. Marcelain

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cc: Rodney L. Howarth, Esq.  
Beverly Lees  
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Thomas M. Marcelain, Judge