

FILED
Athens County Mun. Court
FEB. 12 2007
CLERKS OFFICE
Athens County, Ohio

IN THE ATHENS COUNTY MUNICIPAL COURT
ATHENS OHIO

Tamera D. Amick,

Plaintiff,

Case Number 2006CVG01277

v.

Deborah Sue Sickels,

Defendant.

Journal Entry

This matter came on this 1st day of February 2007 for consideration of Plaintiff's December 29, 2006 Complaint in Forcible Detention and Defendant's January 31, 2007 Motion to Dismiss. Plaintiff was present without counsel; Defendant was present with her attorneys Anne Rubin and Stuart Itani.

This case is a refiling of an earlier eviction action filed September 21, 2006 in Case Number 2006CVG00846. That matter was dismissed without prejudice for failure to allow three full business days between the September 18, 2006 Notice to Leave Premises and the filing of the first Complaint. Plaintiff's September 18, 2006 Notice indicated the grounds as "Notice to Quit".

Upon consideration of the testimony and arguments, the Court finds as follows:

FACTS:

1. Plaintiff is the owner of the subject property, having acquired title for monetary consideration on September 14, 2006. The transfer of this property was for \$1,000, which was below the tax appraisal value of \$12,000.
2. Plaintiff's immediate predecessor in title was Mary Robinson who lived on an adjoining parcel. Mary Robinson is the mother of Michael Robinson who is married to Defendant Deborah Sickels.
3. For approximately six years, Michael Robinson and Deborah Sickels lived at the subject property rent free. There was no written or oral agreement, but Michael and Deborah expected that someday the property would be given to them.
4. In 2006, Michael and Deborah separated and began divorce proceedings. Defendant remained in these subject premises. Shortly thereafter, Mary Robinson transferred the title to this property to Plaintiff, who is a friend of Michael Robinson. The divorce remains pending.
5. The property has a fair market rental value of \$200 per month.

CONCLUSIONS:

- A. Plaintiff is, and always has been, a tenant at will. No consideration has been given to Plaintiff or her predecessor in title. The Court does not consider routine maintenance and paying for utilities used to be consideration.
- B. Plaintiff's September 18, 2006 notice was sufficient to notify Defendant of the end of the tenancy at will effective October 31, 2006.
- C. Plaintiff's December 23, 2006 Notice To Leave Premises, attached to the December 29, 2006 Complaint, satisfies the jurisdictional requirements of R.C. Chapter 1923.
- D. As the titled owner, Plaintiff is entitled to either possession or fair market rent.
- E. Given the pendency of the divorce and the possibility that the subject premises will be determined to be marital property, a stay of execution is appropriate.

DECISION:

The eviction is granted effective February 7, 2007. However, the eviction is conditionally stayed until there is a final order in the divorce of Defendant and Michael Robinson. The

conditions for the stay are that Defendant pay Plaintiff \$200 on the 7th of each month, beginning February 2007, and that she continue to maintain the property. It is so ordered.


William A. Grim, Judge

xc:
Karen Harvey, Magistrate
Tamera Amick
Anne Rubin and Stuart Itani

DIRECTION TO CLERK
PER CIVIL RULE 58 (B)