

IN THE NEW PHILADELPHIA MUNICIPAL COURT
NEW PHILADELPHIA, OHIO

WESLEY E. TOLLE,
Plaintiff,

against,

RHONDA HOSTETLER,
Defendant.

FILED

JAN 18 1994

MUNICIPAL COURT
NEW PHILADELPHIA, OHIO

Case No. CVG-930632

Referee Leslie Early

Judge Mary Wade Space

JUDGMENT ENTRY


This matter came before the Court for a hearing on the first claim for possession on January 13, 1994, at 8:00 a.m. The plaintiff was not present in court, but his agent Mary Perry appeared on his behalf. The defendant was not in court, but was represented by Richard R. Renner of Southeastern Ohio Legal Services.

The defendant, through counsel, objected to Mary Perry's representation on the plaintiff on grounds that she is not the plaintiff, or an attorney for the plaintiff, as required by R.C. §4705.01. Mary Perry claimed she was a "landlord" pursuant to the definition in R.C. §5321.01(B). The court took the objection under advisement and proceeded with the hearing.

Mary Perry's testimony established that the plaintiff had accepted partial rent, in the amount of \$277.00, from the Tuscarawas Metropolitan Housing Authority, for the defendant's December, 1993, rent. The defendant, through counsel, moved to dismiss on grounds that acceptance of partial rent for the month renews the tenancy for that month. Defendant's counsel moved to dismiss this case for lack of subject matter jurisdiction because

the notice to vacate the premises required by R.C. §1923.04 was served before the tenancy had terminated.

The Court finds that the Motion to Dismiss is well-taken. This case is dismissed without prejudice. Costs taxed to the plaintiff. Apply deposit.


LESLIE R. EARLY, REFEREE


MARY WADE SPACE, JUDGE

Prepared and Submitted by:

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