

FILED  
MUNICIPAL COURT  
IN THE MUNICIPAL COURT OF DAYTON, OHIO  
CIVIL DIVISION  
2021 OCT 19 PM 1:24

MARK E. OWENS  
CENTURY PACIFIC HOUSING PARTNERSHIP  
V dba JAYCEE TOWERS APTS., et al,  
Plaintiff(s),

CASE NO: 21 CVG 4124

Vs.

MAGISTRATE'S  
DECISION

REBECCA M JEFFRIES, et al,  
Defendant(s),

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This matter came before the Court for trial October 1, 2021 on Plaintiff's complaint for restitution of the premises for non-payment of rent. An agent for Plaintiff appeared on Plaintiff's behalf represented by counsel and Defendant, appeared pro se. At the conclusion of trial, the Court took the matter under advisement and now renders its decision.

Plaintiff and Defendant have a tenancy pursuant to a written lease. Defendant failed to pay rent timely for July and August. Both parties agree that Defendant tendered two money orders for the monthly rental amount and the associated late fee at some point prior to August 16, 2021. Plaintiff did not accept the money orders but returned them to Defendant. Later, Plaintiff filed a 10-day notice of termination and subsequently a 3-day notice to vacate. Plaintiff indicated that she didn't accept the rent because it was late and there were other issues with the tenant.

Typically, a landlord does not have a duty to accept late rent. However, Dayton R.C.G.O. §93.71 provides:

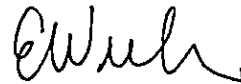
"If a tenant, or an agency or individual on their behalf, tenders all past due rent with reasonable late fees to the landlord prior to the filing of an action under R.C. § 1923 and

the landlord refuses to accept such tender, the tenant's attempted tender of all past due rent with reasonable late fees shall be an affirmative defense to any action filed by the landlord against the tenant for nonpayment of rent."

In this case, the Court finds that the Defendant has met her burden with respect to this affirmative defense. Defendant attempted to pay July and August rent in full but it was refused by Plaintiff. Plaintiff points out that Defendant failed to attempt to tender September rent. However, the Court finds that based on the testimony given, an attempt to tender September's rent would have been a vain act.

WHEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that the Court finds in favor of Defendant on the first cause of action.

SO RECOMMENDED.



Magistrate Ebony N. Wreh

CLERK  
2021 OCT 15 PM 3:06  
CLERK  
JUDICIAL COURT  
CIVIL DIVISION

**Objections to Magistrate's Decision must be made within 14 days of the filing of the Decision**

A party shall not assign as error on appeal the Court's adoption of any factual finding or legal conclusion in the Magistrate's Decision, whether or not specifically designated as a Finding of Fact or Conclusion of Law, unless the party timely and specifically objects in writing to that factual finding or legal conclusion within fourteen (14) days of the filing of the Magistrate's Decision, as required by Civil Rule 53(D).

**Notice of Magistrate's Decision**

The Clerk is instructed to serve, by ordinary mail, notice of this Magistrate's Decision and its date of entry on the journal on all required parties and counsel, and to note the service in the appearance docket.