

IN THE CLEVELAND MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO
HOUSING DIVISION

DEC 30 2004

EARLE B. TURNER, CLERK

G. F. Properties, LLC.

Plaintiff

vs.

Terry Shean

Defendant

Date: December 20b , 2004

CASE NO. 2004CVG29619

LANDLORD – TENANT

MAGISTRATE'S REPORT AND
RECOMMENDATION


This matter called for hearing on *Defendant's Motion to Dismiss* on December 8, 2004 and Plaintiff's Complaint for Forcible Entry and Detainer. Both parties were present with Counsel. For good cause shown, Defendant testified that the complaint was signed by Plaintiff's Manager as opposed to Plaintiff's Counsel. Defendant's motion is granted.

"Under statutory prohibition regarding practice of law, corporation does not have right to appear in propria persona by agent who is not attorney at law. R.C. § 4705.01." *Union savings Association v Home Owners Aid, Inc.* (1970), 23 Ohio St. 2d 60.

Appellee asserts that although a non-attorney filed the complaint on behalf of the corporation, the fact that a licensed attorney represented appellee at the initial hearing remedied any defect. We disagree. Appellee has not cited any authority and we can find none to support its argument. R.C. 4705.01 provides that no person shall be permitted to *commence* any action in which he is not a party concerned unless he has been admitted to the bar. We will not alter the language or intent of the statute by permitting an action commenced by a non-attorney on behalf of another to proceed to trial. *Sheridan Mobile Village, Inc. v Larsen, et. al.* (1992, Lawrence County) 78 Ohio App. 3d. 203.

The Complaint is dismissed and Plaintiff must file anew action to proceed.

Recommended By:

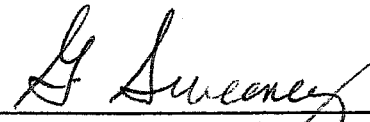


Magistrate

ATTENTION: A PARTY MAY NOT ASSIGN AS ERROR ON APPEAL ANY MAGISTRATE'S FINDING OF FACT OR CONCLUSION OF LAW UNLESS THE PARTY TIMELY AND SPECIFICALLY OBJECTS TO THAT FINDING OR CONCLUSION AS REQUIRED BY CIV. R. 53(E)(3). ALL OBJECTIONS TO THE MAGISTRATE'S DECISION MUST BE FILED IN WRITING WITHIN FOURTEEN DAYS OF THE JOURNALIZATION OF THIS DECISION. OBJECTIONS MUST BE FILED EVEN IF THE TRIAL COURT HAS PROVISIONALLY ADOPTED THE MAGISTRATE'S DECISION BEFORE THE FOURTEEN DAYS FOR FILING OBJECTIONS HAS PASSED. OBJECTIONS MUST COMPLY WITH THE OHIO RULES OF CIVIL PROCEDURE, AND THE LOCAL RULES OF THIS COURT. FOR FUTHER INFORMATION, CONSULT THE ABOVE RULES OR SEEK LEGAL COUNSEL.

Approved:

Visiting



Judge ~~Raymond L. Pianka~~
Housing Division

SERVICE

A copy of this judgment entry was sent to the parties by regular U.S. mail to the following
on 12/21/04.

AMP

COUNSEL FOR PLAINTIFF

Thomas G. McNally, Esq.
1928 Center Ridge Road
Rocky River, Ohio 44146

COUNSEL FOR DEFENDANT

Kevin P. Hallquist, Esq.
1328 W. 64th St.
Cleveland, Ohio 44102