

Plaintiff on the other hand argues that Ohio Civil Rule 59 allowing a new trial, is inapplicable to forcible entry and detainer actions because of the summary nature of the proceedings. Although the court appreciates the interest of Plaintiff in a prompt resolution of these matters, a further analysis of Ohio Civil Rule 59 and a review of the authority of House Authority v. Jackson, 67 Ohio St.2d 129 (1981), do not preclude the granting of a new trial in forcible entry and detainer cases.

For the foregoing reasons, Defendant's Motion for New Trial is hereby Granted. At the new trial the court shall consider the newly-discovered evidence as it pertains to the condition of Defendant's oven broiler and make a determination:

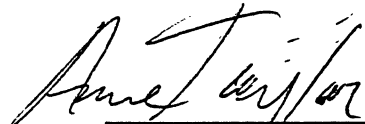
- (a) whether or not the condition of the broiler constituted a material breach of the lease and if so,
- (b) whether that breach warrants eviction of Plaintiff from the premises.

This matter shall come on for hearing before this court on May 13, 1992 at 9:00 a.m..

The court hereby directs the Municipal Court Clerk to serve upon all parties notice of this judgment, and its date of entry upon the journal.

IT IS SO ORDERED.

April 15, 1992



Judge Anne Taylor

Copies to:

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