

IN THE MUNICIPAL COURT OF CHILlicothe, OHIO

Scioto Woods Apts.
PLAINTIFF,

FILED

vs. Shirley Ferko
Ashley Perry et al

2008 OCT 21 AM 9:26

CASE NO. 08 CV 6 1860

TINA E. LARGE, CLERK
MUNICIPAL COURT
CHILlicothe, OHIO

**MAGISTRATE'S DECISION ON
FORCIBLE ENTRY AND DETAINER**
(Findings of Fact and Conclusions of Law)

The Plaintiff's Complaint for Forcible Entry and Detainer was heard on 10-21-08. Plaintiff was (present/not present) and represented by Matthews Schmidt, Atty. Defendant was (present/not present) and represented by Joshua Godwin, Atty.

THE MAGISTRATE FINDS AS FOLLOWS:

- 1) Defendant(s) has been duly served with summons and the Complaint;
- 2) Plaintiff has caused the three (3) day notice to be served upon the Defendant(s) prior to filing the Complaint;
- 3) The Court has jurisdiction over the person of the Defendant and the subject matter of this action;
- 4) Defendant(s) is in default for payment of rent;
- 5) Other Three day notice is defective. Statutory language is not conspicuous and Three day notice was not served on Defendant Party.

THE MAGISTRATE DETERMINES THAT:

- 1) Plaintiff is entitled to possession of the premises and Judgment is found for Plaintiff.
- 2) A Writ of Restitution for the premises may be issued upon the filing of a precipe and payment of costs by the Plaintiff.
- 3) This case should be dismissed as Plaintiff has failed to prove that he/she is entitled to possession based on Failure to serve all parties with a proper 3 day notice.
- 4) Plaintiff voluntarily dismisses the first cause as the Defendant(s) has vacated. The second cause should be continued for Answer.
- 5) Other _____
- 6) Costs should be paid by the (Plaintiff/Defendant).

Joe Spivey Paulson
MAGISTRATE

JUDGMENT ENTRY

The Magistrate's Decision is (adopted/rejected).

- 1) Judgment is rendered in favor of (Plaintiff/Defendant) on the First Claim of the Complaint. The Court finds no just reason for delay to the entry of this Judgment pursuant to C.R. 54.
- 2) A Writ of Restitution shall be issued upon filing of a precipe and deposit of costs by the Plaintiff, within 30 days from this Entry.
- 3) The first cause for eviction is dismissed as Defendant(s) has vacated. The second cause for damages shall be continued according to law.
- 4) Other _____
- 5) This case is dismissed with costs to the Plaintiff.

Date _____

JUDGE

NOTICE
Objections to the Magistrate's Decision must be filed in writing within 14 days.
A PARTY SHALL NOT ASSIGN AS ERROR ON APPEAL THE COURT'S ADOPTION OF ANY FACTUAL FINDING OR LEGAL CONCLUSION, WHETHER OR NOT SPECIFICALLY DESIGNATED AS A FINDING OF FACT OR CONCLUSION OF LAW UNDER CIVIL RULE 53(D)(3)(a)(ii), UNLESS THE PARTY TIMELY AND SPECIFICALLY OBJECTS TO THAT FACTUAL FINDING OR LEGAL CONCLUSION AS REQUIRED BY CIVIL RULE 53(D)(3)(b).

H-632C

IN THE MUNICIPAL COURT
CHILlicothe, OHIO

FILED

SCIOTO WOODS APTS.
c/o Cathy Smith, Bus. Mgr.
2097 Western Avenue, #800
Chillicothe, Ohio 45601
Plaintiff

2008 SEP 30 PM 12:49

CASE NO.: 08-CVG-1800
CLERK
MUNICIPAL COURT
CHILlicothe, OHIO

-vs-

SHIRLEY FERKO
2097 Western Avenue, #606
Chillicothe, Ohio 45601

and

ASHLEY PERRY
2097 Western Avenue, #606
Chillicothe, Ohio 45601

and

ALL OTHER OCCUPANTS
2097 Western Avenue, #606
Chillicothe, Ohio 45601
Defendants

**COMPLAINT IN FORCIBLE
ENTRY AND DETAINER**

FIRST CLAIM

1. Defendants Shirley Ferko and Ashley Perry entered into possession of the premises hereinafter described, as tenant of Plaintiff under a written lease agreement executed on or about May 13, 2008. A copy of said lease agreement is attached hereto and incorporated herein as "Exhibit A".

2. The premises for which possession is sought is located at 2097 Western Avenue, Apartment #606, Chillicothe, Ohio 45601.


3. As of September 6, 2008, Defendants are in default of payment of rental fees and late charges for September, 2008 and water for the month of August, 2008.

4. On or about September 8, 2008 Plaintiff caused to be served upon Defendants a written Notice to vacate said premises within three (3) days. A copy of said Notice is attached hereto and incorporated herein as "Exhibit B". This Notice was served by placing upon the front door of

REQUEST FOR SERVICE

TO THE CLERK:

Kindly issue a summons and a copy of this Complaint to the Sheriff of Ross County, Ohio, for personal service upon the Defendants, Shirley Ferko and Ashley Perry, at 2097 Western Avenue, Apartment #606, Chillicothe, Ohio 45601.



MATTHEW S. SCHMIDT (#0074650)
Attorney for Scioto Woods Apariments

KINDLY MAKE SAME RETURNABLE ACCORDING TO LAW.

EXHIBIT B

NOTICE TO LEAVE THE PREMISES

To SHIRLEY J FERKO Resident(s):

You will please notice that WE want you on or before Sept 12, 2008 to leave the premises you now occupy, and which you have rented of SCIOTO WOODS II APARTMENTS situated and described as follows: 2097 WESTERN AVE. 1606 in the City of CHILLICOTHE, County of Ross, and State of OH.

GROUNDS: PAST DUE BALANCE

Amount Past Due 503.78
+ Late Charge 50.00

Total Balance Due 553.78

YOU ARE BEING ASKED TO LEAVE THE PREMISES. IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY BE INITIATED AGAINST YOU. IF YOU ARE IN DOUBT REGARDING YOUR LEGAL RIGHTS AND OBLIGATIONS AS A RESIDENT, IT IS RECOMMENDED THAT YOU SEEK LEGAL ASSISTANCE.

Cheryl Smith
Signature

SEPTEMBER 08, 2008

Landlord Name/Address:

SCIOTO WOODS II APARTMENTS
2097 WESTERN AVE.
CHILLICOTHE, OH 45601

MEMORANDUM:

On the 8th day of Sept 2008 I served the within notice on the within Named: SHIRLEY J FERKO by furnishing a written copy thereof:

- By Certified Mail, Return Receipt Requested
- By handing a copy to defendant in person
- By leaving it at his (her) usual place of abode
- By leaving it at the premises from which he (she) is to be evicted