

FILED
PORTAGE COUNTY
MUNICIPAL COURT

STATE OF OHIO *Mar. 14* *S. J. DELORE* PORTAGE COUNTY MUNICIPAL COURT
RAVENNA DIVISION
COUNTY OF PORTAGE DELORE CASE NUMBER R93CV1786
CLERK

HAMLET MOBILE HOME PARK,
PLAINTIFF,

VS.

JUDGMENT ORDER

MYRL ROSE JR.,
DEFENDANT.

This cause came on to be heard on the 25th day of February 1994 on Objections filed by the Defendant to the Findings and Report of the Referee filed on December 23, 1993.

The Court finds that Defendant was present with counsel as well as the Plaintiff with counsel.

The Court finds that on January 12, 1994, for good cause shown and in the interest of Justice the Judgment entered on December 23, 1993 was stayed pending "Appeal". The Court finds that no "Appeal" was filed and interprets "Appeal" to mean Defendant wished to file objections. Further, the Defendant was granted to 1-19-94 to file objections which was in fact done by the Defendant.

The Court, on hearing, finds that counsel for the Defendant stated the objections as well as counsel for Plaintiff stated in favor of the Findings and Report of the Referee.

The Court, on consideration of the Objections filed by the Defendant, in Brief in support of the Objections, the statements of counsel for the parties and the detailed Findings of Fact by the Referee, finds that the sole question before the Referee and this Court was whether or not the Defendant has violated the Park Rules in regard to his ownership of a small dog kept in his mobile home, all other complaints having been resolved before the Referee's hearing.

This Court does find that the Referee's findings of fact were sufficient for the Court to make an independent analysis of the issues and the Court does adopt said Findings of Fact.

The Court, however, is obligated to determine if there is an error of law based on the Findings of Fact.

The Court has considered Case Number 92CV615699, of the Cuyahoga County Housing Court, Miller Mobile Homes Inc. Vs. Denardy as well as Leichtman V. Fike No. 1106 Court of Appeals Geauga County., Apr. 27, 1984, both cases which hold in that an absolute "no pet" rule not related to health and safety of the residents is arbitrary, unnecessary and unreasonable.

Here, there is no claim that the dog here involved ever had any effect on other tenants in the park.

Each case must be decided on the particular and peculiar facts in the matter.

Here, the park rules did allow one small dog to each mobile home. Defendant had a large dog when he moved into the premises which he had disposed of and obtained a small dog in accord with the park rules. The rules however acquire "written permission" of the park to keep such an animal.

The evidence is in conflict as to the written permission. The Defendant claims he requested such and the Plaintiff denies such a request was made.

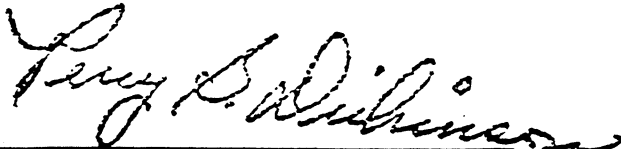
This Court does not find the park rules re dogs are unreasonable provided the complaints of the owner-landlord are related to the health and safety of the park residents.

The Court does, however, find as those rules pertaining to the particular facts in this case have not been violated.

In the absence of any violation relating to health and safety, the conflict on the evidence as to the written permission and the absence of proof that the other tenants in the park may or may not have written permission to have a dog in their mobile home, this Court does adopt the Findings of Fact by the Referee but does reject the ruling of the Referee on the law.

Therefore the Court does enter Judgment for the Defendant at the Plaintiff's Costs.

SO ORDERED.



PERRY G. DICKINSON, JUDGE

PGD/klh

CC: Plaintiff
Defendant ✓