

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
HIGHLAND COUNTY

Darlene E. Eicher,

Plaintiff-Appellee,

v.

Frank W. Eicher,

Defendant-Appellant.

Case No: 09CA34

**DECISION AND
JUDGMENT ENTRY**

File-stamped date: 8-10-10

APPEARANCES:

Jon C. Hapner, Hapner and Hapner, Hillsboro, Ohio, for Appellant.

Fred J. Beery, Hillsboro, Ohio, for Appellee.

Kline, J.:

{¶1} Frank W. Eicher (hereinafter “Frank”) appeals the judgment of the Hillsboro Municipal Court, which granted judgment in favor of Darlene E. Eicher (hereinafter “Darlene”) for \$2,231.07. On appeal, Frank initially contends that the Hillsboro Municipal Court lacked subject matter jurisdiction. Because Darlene’s claim for damages exceeded the monetary jurisdiction of the municipal court, we agree. Accordingly, we sustain Frank’s first assignment of error and vacate the judgment of the trial court. Frank’s remaining arguments are moot, and we decline to address them.

I.

{¶2} On March 23, 2007, the Highland County Common Pleas Court granted Darlene and Frank a divorce. The divorce decree states that Frank “is to receive

\$44,500.00 in cash [from Darlene], and upon payment shall vacate the premises within 45 days of payment[.]”

{¶3} On June 18, 2007, Darlene filed the present case in the Hillsboro Municipal Court. In her complaint, Darlene alleged forcible entry and detainer (hereinafter “FED”), waste, and conversion of property. Essentially, Darlene claimed that Frank (1) did not vacate the marital premises within forty-five days of payment, (2) committed waste while he lived in the marital premises, and (3) had taken items that belonged to Darlene. Darlene did not ask for specific damages in her complaint. Instead, she stated that damages could not be determined “until restitution of the premises.” June 18, 2007 Complaint.

{¶4} On July 18, 2007, the Hillsboro County Municipal Court found for Darlene on her FED claim. However, because some matters were apparently still pending in the divorce case, the Hillsboro County Municipal Court stayed “a hearing on the issue of damages * * * pending resolution of common pleas court matters.” July 18, 2007 Entry.

{¶5} On August 31, 2009, the Hillsboro Municipal Court held a hearing on Darlene’s various claims. Darlene prepared an itemized list of her damages and submitted it into evidence. According to the list, Darlene sought \$18,145.39 in total damages, including \$1,081.08 for the FED. During the hearing, Darlene, Frank, and Frank’s son all testified about Darlene’s claim for damages.

{¶6} After Darlene finished testifying, Frank’s counsel made the following motion: “We move to dismiss, Your Honor, on the basis, first of all, they didn’t ask for a specified amount, the amount claimed, I believe, exceeds the jurisdiction of this Court.” Transcript at 52-53. The trial court denied Frank’s motion, stating that “the Court will

have to consider whether or not it will grant anything in excess of the judicial limit.” Id. at 53.

{¶7} The Hillsboro Municipal Court granted judgment in favor of Darlene for \$2,231.07 – that being, \$1,081.08 for the FED and \$1,149.99 to replace a wood burning stove.

{¶8} Frank appeals and asserts the following three assignments of error: I. “The Municipal Court had no jurisdiction of the subject matter of this action, as it was preempted by the divorce case in the Court of Common Pleas.” II. “The Trial Court erred in holding that there was no agreement as to the disposition of the matters at issue in the Common Pleas Court.” And, III. “The Trial Court erred in allowing the admission of hearsay evidence as to the price of the stove and other matters.”

II.

{¶9} In his first assignment of error, Frank contends that the Hillsboro Municipal Court did not have subject matter jurisdiction over Darlene’s various claims. Here, we need only address Frank’s argument regarding the monetary jurisdiction of the Hillsboro Municipal Court.

{¶10} “The existence of the trial court’s subject-matter jurisdiction is a question of law that we review de novo.” *Yazdani-Isfahani v. Yazdani-Isfahani*, 170 Ohio App.3d 1, 2006-Ohio-7105, at ¶20. “Subject matter jurisdiction is defined as a court’s power to hear and decide cases.” *Heisler v. Heisler*, Hocking App. No. 09CA12, 2010-Ohio-98, at ¶15, citing *State ex rel. Tubbs Jones v. Suster*, 84 Ohio St.3d 70, 75, 1998-Ohio-275.

{¶11} “As a statutorily created court, Ohio municipal courts can exercise only such powers as statutes confer upon them.” *Cheap Escape Co., Inc. v. Haddox, LLC*,

Franklin App. No. 06AP-1107, 2007-Ohio-4410, at ¶13, citing R.C. 1901.01; *State v. Bellefontaine Mun. Court* (1967), 12 Ohio St.2d 26, 27. Pursuant to R.C. 1901.17, a “municipal court shall have original jurisdiction only in those cases in which the amount claimed by any party, or the appraised value of the personal property sought to be recovered, does not exceed fifteen thousand dollars * * *.” “When the monetary amount sought exceeds the municipal court’s limit on subject matter jurisdiction the court is without jurisdiction to decide the matter.” *Turowski v. Apple Vacations Inc.*, Summit App. No. 21535, 2004-Ohio-33, at ¶6, citing *State ex rel. Natl. Emp. Benefit Servs., Inc. v. Cuyahoga Cty. Court of Common Pleas* (1990), 49 Ohio St.3d 49, 50; *Jade, Inc. v. Marketing Servs. by Vectra, Inc.*, Franklin App. Nos. 02AP-50 & 02AP-120, 2002-Ohio-4726, at ¶14. See, also, *Lance Langan Water Jetting, Inc. v. Tiger Gen., Inc.*, Medina App. No. 05CA0018-M, 2005-Ohio-4541, at ¶7; *Nyamusevya v. Med. Mut. of Ohio*, Franklin App. No. 02AP-769, 2003-Ohio-3335, at ¶30; *Bolden v. Hodge* (M.C.1999), 99 Ohio Misc.2d 95, 98-99.

{¶12} As the Hillsboro Municipal Court noted in its judgment entry, Darlene “requested damages totaling \$18,145.39 plus the return of certain personal property.” October 13, 2009 Judgment Entry. Because “[t]he parties did not request that the matter be transferred to common pleas court[.]”¹ the Hillsboro Municipal Court “consider[ed] claims up to the \$15,000.00 limit of jurisdiction.” *Id.* However, “[w]hensoever it appears by suggestion of the parties or otherwise that the court lacks

¹ Despite the Hillsboro Municipal Court’s language, a municipal court may “transfer a case by certifying it *only* when a counterclaim, cross-claim, or third-party complaint exceeds the court’s jurisdiction.” *State ex rel. Natl. Emp. Benefit Servs.* at 50 (emphasis added). The present case does not involve a counterclaim, cross-claim, or third-party complaint. Instead, it is Darlene’s initial claim that exceeds the jurisdictional limit. Therefore, the Hillsboro Municipal Court could not have transferred the present case to the common pleas court, even if Darlene or Frank had requested a transfer. Instead, the Hillsboro Municipal Court had to dismiss it pursuant to Civ.R. 12(H)(3). See *infra*.

jurisdiction on the subject matter, the court *shall* dismiss the action.” Civ.R. 12(H)(3) (emphasis added). Here, Darlene expressly sought to recover more than \$15,000 in damages. In fact, the first page of her itemized lists states “[p]lease reimburse \$18,145.39.” Thus, it should have become apparent that the Hillsboro Municipal Court lacked subject matter jurisdiction over the matter. And pursuant to Civ.R. 12(H)(3), the Hillsboro Municipal Court was required to dismiss the action. In this context, the trial court did not have the authority to consider claims up to \$15,000. See *Tru-Built Garage & Lumber Co., Inc. v. Mays* (Jan. 27, 1993), Montgomery App. No. 13432 (The appellee’s claim for relief “exceeded the municipal court’s monetary jurisdiction. Therefore, the municipal court never had jurisdiction in this matter and could not evade the requirements of * * * R.C.1901.17 by reducing the damages it chose to award.”); *Staffilino Chevrolet, Inc. v. Balk*, 158 Ohio App.3d 1, 2004-Ohio-3633, at ¶11 (“It is the amount claimed, not the amount recovered, that determines jurisdiction.”).

{¶13} Furthermore, we recognize that Darlene’s initial complaint did not specify an amount of damages. Instead, Darlene stated that “[t]he amounts of value of the said property cannot be determined until restitution of the premises[,] and plaintiff cannot get estimates for the repairs to waste of the premises or determine the extent until restitution of the premises.” Nevertheless, once Darlene sought to recover more than \$15,000 in damages, the Hillsboro Municipal Court should have dismissed the action.² See, e.g., *State ex rel. Natl. Emp. Benefit Servs.* at 49-50 (stating that “the municipal court had no jurisdiction under R.C. 1901.17 to decide the merits * * * once the

² Pursuant to R.C. 1901.17, the \$15,000 jurisdictional limit “does not apply to the housing division or environmental division of a municipal court.” Although Darlene asserted a FED claim, the Hillsboro Municipal Court does not have a housing division.

supplemental complaint ” brought the total damages sought to \$22,933.80); *Stan Alan Acceptance Corp. v. Chapman*, Summit App. No. 21873, 2004-Ohio-4330, at ¶¶3-4, 12; *Baer v. Fisher & Sons, Inc.* (Nov. 19, 1980), Fairfield App. No. 30-CA-80.

{¶14} Darlene’s claim for damages exceeded the Hillsboro Municipal Court’s monetary jurisdiction. Accordingly, we sustain Frank’s first assignment of error and vacate the judgment of the Hillsboro County Municipal Court. Frank’s remaining arguments are moot, and we decline to address them. See App.R. 12(A)(1)(c).

JUDGMENT VACATED AND CAUSE REMANDED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT BE VACATED AND THE CAUSE REMANDED. Appellee shall pay the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Hillsboro Municipal Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure. Exceptions.

McFarland, P.J. and Abele, J.: Concur in Judgment and Opinion.

For the Court

BY: _____
Roger L. Kline, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.