

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

WILLIAM LYNCH

Plaintiff-Appellant

-VS-

JEN STUTLER, ET AL.

Defendants-Appellees

JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. Patricia A. Delaney, J.

Hon. Craig R. Baldwin, J.

: Case No. 2014CA00191

: OPINION

CHARACTER OF PROCEEDING:

Appeal from the Massillon Municipal
Court, Case No. 2014-CVG-1018

JUDGMENT:

AFFIRMED

DATE OF JUDGMENT ENTRY:

August 17, 2015

APPEARANCES:

For Plaintiff-Appellant:

For Defendants-Appellees:

WILLIAM LYNCH, PRO SE
4139 Meadowview Dr. NW
Canton, OH 44718

NO APPEARANCE

Delaney, J.

{¶1} Plaintiff-Appellant William Lynch appeals the September 23, 2014 judgment entry of the Massillon Municipal Court.

FACTS AND PROCEDURAL HISTORY

{¶2} On May 5, 2014, Plaintiff-Appellant William Lynch ("Landlord") filed a complaint for forcible entry and detainer and for money damages against Defendants-Appellees Jen Stutler and Tim Fulton ("Tenants") in the Massillon Municipal Court. Landlord alleged in the complaint Tenants owed \$2,000.00 for rent and \$250.00 for damages to the rental property.

{¶3} The matter came on for a trial before the magistrate on August 8, 2014. The magistrate issued a decision and recommendation on September 5, 2014. The magistrate awarded Landlord \$2,000.00 in unpaid rent. Landlord argued at the hearing he was entitled to \$2,573.00 in damages for costs of cleanup, damage repairs, maintenance of Tenants' cat and dog left behind, and property unlawfully removed from the rental property. The magistrate determined Landlord only sought \$250.00 in damages in his complaint filed on May 5, 2014. Because the damages Landlord requested at the hearing exceeded the amount he pled in the complaint, the magistrate determined Landlord was only entitled to damages in the amount he stated in his complaint. The magistrate found \$250.00 was reasonable for the damages done by Tenants beyond normal wear and tear.

{¶4} Landlord filed objections to the magistrate's decision on September 18, 2014. Tenants filed an objection to the magistrate's decision on September 19, 2014.

Neither party filed a transcript of the hearing with their objections to the magistrate's decision.

{¶5} On September 23, 2014, the trial court overruled the objections to the magistrate's decision and approved and adopted the decision.

{¶6} It is from this judgment entry Landlord now appeals.

ANALYSIS

{¶7} Landlord filed this appeal pro se. Landlord's brief does not comply with App.R. 16(A). This court has held that “like members of the bar, pro se litigants are required to comply with rules of practice and procedure.” *Oyler v. Oyler*, 5th Dist. Stark No. 2014CA00015, 2014-Ohio-3468, ¶ 19 quoting *Hardy v. Belmont Correctional Inst.*, 10th Dist. No. 06AP-116, 2006-Ohio-3316, ¶ 9. We also understand that “an appellate court will ordinarily indulge a pro se litigant where there is some semblance of compliance with the appellate rules.” *State v. Long*, 5th Dist. Richland No. 15CA3, 2015-Ohio-1657, ¶ 24 quoting *State v. Richard*, 8th Dist. Cuyahoga No. 86154, 2005-Ohio-6494, ¶ 4 (internal quotation omitted).

{¶8} In his appeal, Landlord argues the trial court erred when it overruled his objections to the magistrate's decision.

{¶9} When Landlord filed his objections to the magistrate's decision, he failed to present a transcript of the magistrate's hearing to the trial court for its review. Landlord also did not file a transcript of the hearing with this appeal.

{¶10} This Court has held, “where an appellant fails to provide a transcript of the original hearing before the magistrate for the trial court's review, the magistrate's findings of fact are considered established and may not be attacked on appeal.” *Green*

Tree Servicing, L.L.C. v. St. John, 5th Dist. Stark No. 2013 CA 00092, 2015-Ohio-1111, ¶ 18 quoting *Doane v. Doane*, 5th Dist. Guernsey No. 00CA21, 2001 WL 474267 (May 2, 2001); *State v. Leite*, 5th Dist. Tuscarawas No.1999AP090054, 2000 WL 502819 (Apr. 11, 2000); *Fogress v. McKee*, 5th Dist. Licking No. 99CA15, 1999 WL 668580(Aug. 11, 1999); and *Strunk v. Strunk*, 5th Dist. Muskingum No. CT96–0015, 1996 WL 787981(Nov. 27, 1996).

{¶11} Accordingly, we review Landlord's appeal only to analyze whether the trial court abused its discretion in reaching specific legal conclusions based upon the established facts. *Green Tree Servicing, L.L.C., supra* at ¶ 19 citing *He v. Zeng*, 5th Dist. Licking No.2009–CA–00060, 2010–Ohio–2095, ¶ 23.

{¶12} Landlord argues in his appeal that the damages committed by Tenants to the rental property went beyond normal wear and tear. Landlord argues he presented sworn affidavits to the magistrate that verified the extent of the damages committed by Tenants.

{¶13} On appeal, Landlord attacks the factual findings of the trial court that determined the damages to the rental property beyond normal wear and tear were reasonably valued at \$250.00. Without the benefit of the transcript of the hearing, the reviewing court is restricted to the magistrate's findings of fact. In this case, we find the trial court did not err in overruling Landlord's objections to the magistrate's decision.

{¶14} Landlord's argument is overruled.

CONCLUSION

{¶15} The judgment of the Massillon Municipal Court is affirmed.

By: Delaney, J.,

Gwin, P.J. and

Baldwin, J., concur.