

FILED
KNOX COUNTY
COURT OF COMMON PLEAS

2020 FEB 18 AM 8:50

**IN THE COURT OF COMMON PLEAS
KNOX COUNTY, OHIO**

CHRISTY HILLERMAN STATION
CLERK OF COURTS

J&V PROPERTY MANAGEMENT, LLC

Case No. 19OT08-0242

Plaintiff

v.

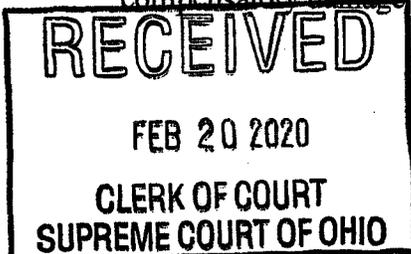
ENTRY

WAYNE LINK

Defendant

This matter came on for Hearing on January 21, 2020. The Plaintiff appeared being represented by Counsel while the Defendant appeared pro se. Both the Plaintiff and Defendant presented oral arguments setting forth their positions herein while neither called witnesses. Thereafter, the Defendant filed a Trial Brief for January 21, 2020 Hearing on January 30, 2020 and the Plaintiff filed a Post-Trial Brief on February 3, 2020.

After having considered the same, this Court makes the following findings. The Defendant signed a Residential Lease Agreement on August 26, 2014. The Lease was entered into with third-party D.R. Homes, Ltd. for unit 5 located at 6 West Chestnut Street, Mount Vernon, Ohio. In July of 2018, D.R. Homes, Ltd. sold the property to J&V Property Management, LLC, the Plaintiff herein. At the time of the sale the Defendant was still occupying the rental unit in question. The Defendant made no rental payments to the Plaintiff and on September 5, 2018 the Plaintiff filed a Forcible Entry and Detainer action in Mount Vernon Municipal Court. The Defendant filed a Counter Claim and Cross Claim for \$20,000 compensatory damage and \$20,000 punitive damage. The Defendant did not claim that he had



paid the required rent. The Defendant requested the transfer of his case to the Knox County Common Pleas Court. The Defendant had not previously made any allegations of inferior living conditions. The Municipal Court ruled that the 3-day notice did not contain the required language and further informed the Defendant (a former lawyer) of his right to free legal services. In the Common Pleas Court, the Defendant sought to add his former landlord and individual members of the Limited Liability Companies as Defendants. The Motion was denied on February 12, 2019. Ten days later, the Defendant inexplicably filed a separate action in this Court naming the exact same parties and the exact same facts upon which this Court had just dismissed. This Court dismissed Defendant's "new" case finding that the matter had been litigated when Defendant's Motion to Join Necessary Party had been denied. This order was filed July 8, 2018.

On October 30, 2018, the Plaintiff filed a second Forcible Entry and Detainer action. This action was filed in Knox County Common Pleas Court and based upon a new three day notice. The same was again filed for nonpayment of rent. This matter was dismissed by this Court pursuant to Civil Rule 12(b)(6) in that the complaint set forth no relationship between the Plaintiff and Defendant's Landlord D.R. Homes.

On July 15, 2019, the Defendant appealed this Court's ruling denying Defendant's Motion to Join Necessary Party and this Court's dismissal of Defendant's Counter Claim and Cross Claim and also this Court's dismissal of the Complaint filed upon the exact same parties and the exact same facts as the earlier dismissal.

The Plaintiffs were eventually successful in their eviction action after the Defendant was served with a thirty (30) day notice to vacate and a three (3) day notice for failure to comply. The

Defendant then again filed a motion to transfer and appealed the Municipal Court ruling whereafter the Fifth District Court of Appeals affirmed the Municipal Court ruling.

Thereafter, the Defendant filed two cases in the Ohio Supreme Court with one case being against the Knox County Common Pleas and one against the Fifth District Court of Appeals. Both of these cases were dismissed.

A vexatious litigator is a person who has habitually, persistently and without reasonable grounds engaged in vexatious conduct - § 2323.52(A)(3). Vexatious conduct is defined as conduct that “serves merely to harass or maliciously injure another party to the civil action ... cannot be supported in good faith,” or “is imposed solely for delay” § 2323.52(A)(3). It was held in Mayer v. Bristow 91 Ohio St. 3d 3 that the vexatious litigation statute is to prevent abuse of the system by persons who deplete the system of its resources. The excessive filings by the Defendant are such as abuse. A mere ten (10) days after receiving a dismissal of a Motion to Join Party, the Defendant filed a Complaint in this Court naming the exact same parties and the exact same facts. After that action was also dismissed, the Defendant appealed that ruling to the Fifth District Court of Appeals.

Bringing a new action that involves the same parties and the same facts as a previous action that has been ruled upon has been held to be harassing and frivolous conduct. See Farley v. Farley, 2003-Ohio-3185 ¶ 47 (Ohio Ct. App.) (citing Georgeadis v. Dials, 1999 Ohio App. LEXIS 5848); Roo v. Sain, 2005-Ohio-2436 ¶ 16 (Ohio Ct. App.).

The Defendant has filed complaints, motions and appeals that cannot be defended in good faith. The Defendant claimed that the premises in question were not maintained in a habitable condition and yet the Defendant did not comply with § 5321.07(A). Said section requires the

tenant to file a notice with the landlord setting forth the condition to be remedied with a reasonable time to do so. If not remedied, the tenant then deposits rent with the Court, applies to the Court for an order directing the landlord to remedy the situation or the tenant may thereafter terminate the rental agreement. The Defendant did not follow this procedure. Instead, the Defendant sued for damages, which are not provided for under the statute.

In all the cases listed herein, the Defendant has claimed indigency and yet in an additional action filed against the attorney for Knox County Metropolitan Housing, the Defendant claimed to have paid over \$5,000 for his room at the Harcourt Motel. Per ORC § 2323.52(A)(3) conduct by any party in an action or actions may all be considered when determining whether a person is a vexatious litigator.

The actions of the Defendant revolve around his failure to pay rent pursuant to his Lease Agreement. The Defendant claimed that the rental unit was not maintained in a habitable condition. He failed, however; to notify the Landlord pursuant to § 5321.07(A) and did not deposit his rent with the Court. Instead, when faced with a Forcible Entry and Detainer action, he filed Counter Claims and Cross Claims for \$20,000 compensatory and \$20,000 punitive damages which are not provided for in the statute and requested transfer to the Common Pleas Court. From there, the Defendant filed twenty-one (21) Motions, nine (9) Affidavits of Indigency, three (3) Appeals, eight (8) Claims and twenty-two (22) other pleadings. An additional Complaint was filed against the attorney for Knox County Metropolitan Housing. The Defendant's aforementioned Trial Brief for January 21, 2020 contains an appendix of 565 pages of documents many of which are included in this Court's case files and are recorded with the Knox County Clerk of Courts.

The Defendant's actions have been vexatious and injurious to the Plaintiff. The Plaintiff has had to expend unnecessary time and expense as a result thereof regardless of the intent of the Defendant. See Borger v. McErlane, 2001 Ohio 4030 (Hamilton Cnty. Ct. App.)

Wherefore, this Court finds and hereby declares Defendant Wayne Link has engaged in vexatious conduct that serves merely to harass or maliciously injure the Plaintiff herein. The Defendant's conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification or reversal of existing law.

The Defendant herein, Wayne Link, is hereby prohibited from doing one or more of the following without first obtaining leave of court to proceed.

a) Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court or county court. § 2323.52(D)(1)(a).

b) Continuing any legal proceedings that the Defendant Wayne Link had instituted in any of the courts specified in § 2323.52(D)(1)(a) prior to the entry of this order;

c) Making an application, other than an application for leave to proceed under division (F)(1) of § 2323.52, in any legal proceedings instituted by the Defendant Wayne Link or another person in any of the courts specified in § 2323.52(D)(1)(a).

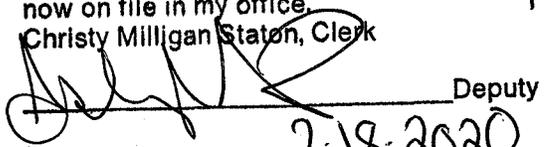
This order shall remain in force indefinitely pursuant to § 2323.52(E). The Knox County Clerk of Courts is hereby ordered to send a certified copy of this order to the Supreme Court of Ohio for publication in a manner that the Supreme Court determines is appropriate and that will facilitate the clerk of the court of claims and a clerk of the court of appeals, court of common pleas, municipal court or county court in refusing to accept pleadings and other papers submitted for filing by the Defendant Wayne Link unless leave to proceed has been granted.

Having so found, this Court finds for the Plaintiff and against the Defendant herein. Costs assessed to the Defendant. **IT IS SO ORDERED.**



Judge Linton D. Lewis, Jr.

WITHIN THREE (3) DAYS OF ENTERING THIS JUDGMENT UPON THE JOURNAL, THE CLERK SHALL SERVE NOTICE OF THIS JUDGMENT AND ITS DATE OF ENTRY UPON ALL PARTIES NOT IN DEFAULT FOR FAILURE TO APPEAR. SERVICE SHALL BE MADE IN A MANNER PRESCRIBED IN CIVIL RULE 5 (B) AND SHALL BE NOTED IN THE APPEARANCE DOCKET. CIVIL RULE 58.

This is to certify the foregoing to be a true and correct copy of the original *Entry* now on file in my office.
Christy Milligan Staton, Clerk
 Deputy
Date 2-18-2020

CC:
Jeremy Abrams, Esq.
Wayne Link, Defendant
Supreme court of Ohio