

[Cite as *Crow v. Baldino*, 2017-Ohio-2779.]

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CLARK COUNTY**

ERIC R. CROW, et al.	:	
	:	
<i>Plaintiffs-Appellees</i>	:	Appellate Case No. 2016-CA-56
	:	
v.	:	Trial Court Case No. 2015-CVF-2981
	:	
MARGARET BALDINO	:	(Civil Appeal from Municipal Court)
	:	
<i>Defendant-Appellee</i>	:	
	:	
<i>and</i>	:	
	:	
KENNETH HENDRICK	:	
	:	
<i>Intervenor-Appellant</i>	:	

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OPINION

Rendered on the 12th day of May, 2017.

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Attorney for Plaintiffs-Appellees

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Defendant-Appellee-Pro Se

KENNETH HENDRICK, 2803 Troy Road, Springfield, Ohio 45504

Intervenor-Appellant-Pro Se

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WELBAUM, J.

{¶ 1} Intervenor-appellant, Kenneth Hendrick, appeals from the decision of the Clark County Municipal Court denying his motion to intervene in an action brought by Plaintiff-Appellees Eric and Theresa Crow against Defendant-Appellee Margaret Baldino. For the reasons outlined below, the judgment of the trial court will be affirmed.

I. Facts and Course of Proceedings

{¶ 2} On October 26, 2015, Eric Crow and Theresa Crow commenced an action in municipal court against Margaret Baldino, Kenneth Hendrick’s mother. According to the Crows, Ms. Baldino leased property owned by the Crows from November 2012 until September 2014. The property at issue was located at 1335 N. Limestone Street in Springfield. The Crows attached to the complaint a copy of a November 12, 2012 lease signed by Theresa Crow and Ms. Baldino. The lease provided for a monthly rent of \$600. According to the complaint, Ms. Baldino vacated the property in September 2014, and “failed to leave the premises in good condition, ordinary wear and tear excepted, have [sic] caused the destruction of fixtures of the premises and excessive trash and filth on the premises.” Dkt. 1. The Crows sought damages in the amount of \$4,081.00, plus interest and costs.

{¶ 3} Ms. Baldino, through counsel, filed an answer denying all of the allegations. On July 26, 2016, Kenneth Hendrick filed a motion to intervene in the action. Hendrick contended that he was the correct defendant rather than his mother. In support of his motion, Hendrick attached an April 2015 debt collection letter from the attorney for the

Crows that referenced a debt owed by “Kenneth Baldino” regarding 1335 N. Limestone Street. According to Hendrick, counsel for the Crows mistakenly addressed the letter to “Kenneth Baldino” rather than Kenneth Hendrick.

{¶ 4} On August 2, 2016, Hendrick filed a motion to correct the record. In that motion, he contended that the lease signed by Theresa Crow and Ms. Baldino concerned property on which Hendrick ran a computer repair shop. According to Hendrick, Ms. Baldino signed the lease solely because Hendrick was unable to produce a valid I.D., Ms. Baldino never resided in the leased space, and Hendrick suffered damages as a result of the Crows’ “defective water-logged, leaking, electrically-deficient 1900 rental building.” He claimed to have video evidence of the damage to his personal property.

{¶ 5} On August 26, 2016, the trial court overruled the motion to intervene, finding that Hendrick had failed to establish any right to intervention under Ohio Civ.R. 24(A) or any basis for permissive intervention under Civ.R. 24(B). The trial court also overruled the motion to correct the record, because Hendrick was not a party to the action and did not have standing to file the motion.

{¶ 6} Hendrick filed a timely notice of appeal from the trial court’s decision overruling his motion to intervene. The case against Ms. Baldino proceeded to trial and the Crows were granted a judgment against Ms. Baldino in the amount of \$4,026.00. Ms. Baldino did not appeal from the final judgment.

II. The Trial Court Did Not Abuse Its Discretion in Denying Hendrick’s Motion to Intervene

{¶ 7} Hendrick’s assignments of error state:

TRIAL COURT JUDGE'S OFFICIAL DETERMINATION WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE PROVIDED WITHIN THE INTERVENOR'S MOTION TO CORRECT THE RECORD IN VIOLATION OF OHIO RCP 24(a)(2).

TRIAL COURT JUDGE'S OFFICIAL DETERMINATION WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE PROVIDED WITHIN THE MOTION TO INTERVENE IN VIOLATION OF OHIO RCP 24(b)(2).

THE TRIAL COURT ERRED BY DENYING EVIDENCE PROVIDED BY THE INTERVENOR IN THE MATTER BEFORE THE TRIAL COURT, PRESENTED IN BOTH THE MOTION TO INTERVENE AND THE MOTION TO CORRECT THE RECORD IN VIOLATION OF FEDERAL RULES OF CIVIL PROCEDURE > TITLE IV. PARTIES RULE 19 1(a)(b)(i)(ii) ET. AL.

{¶ 8} We review a trial court's decision on a motion to intervene for an abuse of discretion. *State ex rel. Merrill v. Ohio Dept. of Natural Resources*, 130 Ohio St.3d 30, 2011-Ohio-4612, 955 N.E.2d 935, ¶ 41. Although Civ.R. 24 should be construed liberally in favor of granting intervention, we cannot reverse unless the trial court's decision was unreasonable, arbitrary, or unconscionable. *Merrill* at ¶ 41.

{¶ 9} The trial court found that Hendrick failed to establish a right to intervention under Civ.R. 24(A) or any basis for permissive intervention under Civ.R. 24(B). Pursuant to Civ.R. 24(A), Hendrick would be permitted to intervene in the action between the Crows and Ms. Baldino if he showed that a state statute conferred an unconditional right to intervene or if he claimed "an interest relating to the property or transaction that is the

subject of the action and [he] is so situated that the disposition of the action may as a practical matter impair or impede [his] ability to protect that interest, unless [his] interest is adequately represented by existing parties.” Civ.R. 24(A)(1). Further, the trial court had discretion to allow Hendrick to intervene in the action between the Crows and Ms. Baldino if he had shown that a state statute conferred a conditional right to intervene or if Hendrick’s “claim or defense and the main action have a question of law or fact in common.” Civ.R. 24(B). In exercising its discretion under Civ.R. 24(B), the trial court “shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.”

{¶ 10} In his motion to intervene, Hendrick did not identify any state statute that conferred an unconditional right to intervene. Civ.R. 24(A)(1). Further, Hendrick did not show what legal interest he had in the litigation between the Crows and Ms. Baldino and how his interest may be impaired or impeded if the litigation was resolved without his presence as a party. Civ.R. 24(B). The sole support for his motion to intervene was an April 2015 debt collection letter from the attorney for the Crows that referenced a debt owed by “Kenneth Baldino” regarding 1335 N. Limestone Street. Dkt. 14G. This letter is insufficient to satisfy Civ.R. 24. Hendrick included more allegations in his motion to correct. But, on appeal, Hendrick concedes that “the bulk” of his motion to correct the record was “predominantly unsubstantiated statements made by the Intervenor.” Brief, p. 3.

{¶ 11} Finally, Civ.R. 24(C) requires that the motion to intervene “shall state the grounds for intervention and shall be accompanied by a pleading, as defined in Civ.R. 7(A), setting forth the claim or defense for which intervention is sought.” But Hendrick

did not provide a pleading to the trial court setting forth any claim or defense. “Motions to intervene are regularly denied (and/or the denial upheld) due to the failure to attach a pleading as required by Civ.R. 24(C).” (Citations omitted.) *Yemma v. Reed*, 7th Dist. Mahoning No. 16 MA 0015, 2017-Ohio-1015, ¶ 46. See also *State ex rel. Sawicki v. Court of Common Pleas of Lucas Cty.*, 121 Ohio St.3d 507, 2009-Ohio-1523, 905 N.E.2d 1192, ¶ 21 (affirming denial of the motion to intervene on the ground that the intervenor failed to comply with Civ.R. 24(C) even though trial court did not rely on this rule provision when denying the motion).

{¶ 12} We conclude that Hendrick failed to meet the requirements for intervention set forth in Civ.R. 24(A) and (B) and failed to comply with Civ.R. 24(C). Consequently, the trial court did not abuse its discretion in overruling Hendrick’s motion to intervene. Hendrick’s assignments of error are overruled.

III. Conclusion

{¶ 13} All of Hendrick’s assignments of error having been overruled, the judgment of the trial court is affirmed.

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HALL, P.J. and DONOVAN, J., concur.

Copies mailed to:

Andrew Elder
Margaret Baldino
Kenneth Hendrick
Hon. Thomas E. Trempe

