

COURT OF APPEALS
KNOX COUNTY, OHIO
FIFTH APPELLATE DISTRICT

TRENT HAUKE	:	JUDGES:
	:	Hon: W. Scott Gwin, P.J.
Plaintiff-Appellee	:	Hon: Sheila G. Farmer, J.
	:	Hon: John W. Wise, J.
-vs-	:	
	:	Case No. 2005-CA-000003
EDITH E. HARRIS	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Civil appeal from the Mount Vernon Municipal Court, Case No. 05CVG1

JUDGMENT: Affirmed

DATE OF JUDGMENT ENTRY: December 8, 2005

APPEARANCES:

For Plaintiff-Appellee For Defendant-Appellant

KIM M. ROSE
10 South Gay Street
Mount Vernon, OH 43050

LUTHER J. MILLS
1935 West Schrock Road
Westerville, Oh 43081

Gwin, P.J.

{¶1} Defendants Roy Davis and Edith Harris appeal a judgment of the Municipal Court of Mount Vernon, Knox County, Ohio, entered in favor of plaintiff Trent Hauke, on his complaint to evict appellants from his property. Appellants assign four errors to the trial court:

{¶2} “I. THE TRIAL COURT COMMITTED ERROR PREJUDICIAL TO APPELLANT HARRIS, ABUSING ITS DISCRETION, BY FAILING TO DISCERN THAT THERE HAD BEEN A FAILURE OF SERVICE UPON THIS APPELLANT.

{¶3} “II. THE TRIAL COURT COMMITTED ERROR PREJUDICIAL TO APPELLANT HARRIS, ABUSING ITS DISCRETION, BY PROCEEDING WITH THE EVICTION ACTION AGAINST APPELLANT HARRIS WITHOUT HER BEING PRESENT IN COURT.

{¶4} “III. THE TRIAL COURT COMMITTED ERROR PREJUDICIAL TO APPELLANT HARRIS, ABUSING ITS DISCRETION, BY PROCEEDING WITH THE EVICTION ACTION AGAINST APPELLANT HARRIS WITHOUT INQUIRING INTO HER SITUATION OR STATUS, AND WITHOUT INQUIRING WHETHER OR NOT SHE HAD ACTUAL KNOWLEDGE OF THE EVICTION ACTION PROCEEDING AGAINST HER.

{¶5} “IV. THE TRIAL COURT COMMITTED ERROR PREJUDICIAL TO APPELLANT HARRIS, ABUSING ITS DISCRETION, BY PROCEEDING WITH THE EVICTION ACTION AGAINST APPELLANT HARRIS WHILE FAILING TO NOTE THAT CO-DEFENDANT ROY DAVIS WAS NOT A LAWYER AND THAT HE HAD NO STANDING TO REPRESENT HIS MOTHER, APPELLANT HARRIS.”

{¶6} Appellee alleged on the 21st day of December, 2004, he served a notice to leave the premises, addressed to both appellants, by taping a written copy to their door. The record also contains the statement of a bailiff who served the summons by personal service, and a letter to the court filed January 26, 2005, which purports to be an answer to the complaint filed by both appellants.

I.

{¶7} Appellants urge there was a failure of service on appellant Edith Harris.

{¶8} R.C. 1923.04 provides service of a notice of eviction is perfected by leaving it at the usual place of abode or at the premises from which the defendant is to be evicted. The first assignment of error is overruled.

II, III, & IV.

{¶9} In their second, third, and fourth assignments of error, appellants argue the court committed prejudicial error in proceeding with the eviction action without making inquiry into appellant Edith Harris' circumstances, and instead permitting appellant Davis to represent her interests. The trial court's judgment entry finds Roy Davis appeared and finds the defendants were not represented by counsel. In the absence of a transcript of the hearing, there is no evidence the trial court permitted appellant Davis to act on behalf of appellant Harris. Because the record does not contain a transcript of proceedings, we must presume the validity of the proceedings, *Knapp v. Edwards Laboratories* (1980), 61 Ohio St. 2d 197.

{¶10} The second, third, and fourth assignments of error are overruled.

{¶11} For the foregoing reasons, the judgment of the Municipal Court of Mount Vernon, Knox County, Ohio, is affirmed.

By Gwin, P.J.,
Farmer, J., and
Wise, J., concur

JUDGES

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