

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE EX REL., CLEVELAND 2, LLC,

Relator,

v.

JUDGE W. MONA SCOTT, ET AL.,

Respondents.

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No. 112961

JOURNAL ENTRY AND OPINION

JUDGMENT: WRITS GRANTED

DATED: August 25, 2023

Writs of Mandamus and Procedendo
Order No. 567092

Appearances:

Powers Friedman Lin, PLL and Thomas Owen, *for relator.*

Mark D. Griffin, City of Cleveland Director of Law, James R. Russell, Jr., Chief Assistant Director of Law, and Gilbert E. Blomgren, Assistant Director of Law, *for respondents.*

MICHAEL JOHN RYAN, J.:

{¶ 1} On July 11, 2023, the relator, Cleveland 2, LLC, commenced this mandamus¹ and procedendo² action against the respondents, Judge W. Mona Scott and Magistrate Mark Wiseman, to compel them to issue a decision in the underlying forcible entry and detainer case, *Cleveland 2, LLC v. Dixon*, M.C. Hous. Div. No. 2023-CVG-003640. On July 18, 2023, this court issued an alternative writ and ordered the respondents to proceed to judgment in the underlying case forthwith or show cause by July 26, 2023, why this court should not enter a peremptory writ of mandamus or procedendo.

{¶ 2} On July 26, 2023, the respondents filed their reply to the alternative writ. Attached to the reply was the magistrate's decision from the May 1, 2023 eviction hearing. The magistrate concluded that the landlord, Cleveland 2, LLC, had complied with the required three-day notice pursuant to R.C. 1923.04 and had met its burden of proof showing that the tenant had failed to pay rent. The magistrate recommended judgment for the landlord on the eviction claim with a move out to occur on May 16, 2023. In response, the respondent judge on July 14, 2023, found that the landlord, listed as "The Galloway/ Cleveland 2 LLC," had not produced its

¹The requisites for mandamus are well established: (1) the relator must have a clear legal right to the requested relief, (2) the respondent must have a clear legal duty to perform the requested relief and (3) there must be no adequate remedy at law. *State ex rel. Ney v. Niehaus*, 33 Ohio St.3d 118, 515 N.E.2d 914 (1987).

²The writ of procedendo is merely an order from a court of superior jurisdiction to one of inferior jurisdiction to proceed to judgment. *Yee v. Erie Cty. Sheriff's Dept.*, 51 Ohio St.3d 43, 553 N.E.2d 1354 (1990).

evidence of good standing and active registration with the Ohio secretary of state, as required by Cleveland Municipal Court Local Rule 3(B)(1). The judge remanded the matter to the magistrate to allow the landlord to produce the required documentation at a July 31, 2023 hearing.

{¶ 3} On August 1, 2023, the respondents filed a supplemental reply to the alternative writ. Attached to this filing were two orders signed by the respondent judge. In one order, the judge found that because “the Galloway” was merely an internal name the landlord used to differentiate the subject property among its other properties, there was no need to submit registration papers from the secretary of state. The other order entered judgment in favor of the landlord and ordered a move-out date “no sooner than 14 days after this Entry is docketed by the Clerk of Courts” (¶ 4 of the July 31, 2023 Judgment Entry.)

{¶ 4} The delays established or alleged in (1) *Shaker House LLC v. Daniel*, 2022-Ohio-2778, 193 N.E.3d 1159 (8th Dist.); (2) *State ex rel. Shaker House, LLC v. Scott*, 8th Dist. Cuyahoga No. 111952; (3) *State ex rel. Glenville Plaza Holding, LLC v. Scott*, 8th Dist. Cuyahoga No. 112264; (4) *State ex rel. Shaker Hts. Apts. Owner, LLC v. Scott*, 8th Dist. Cuyahoga No. 112587, 2023-Ohio-1901; (5) *State ex rel. Shaker Hts. Apts. Owner v. Scott*, 8th Dist. Cuyahoga No. 112769, 2023-Ohio-2589; (6) *State ex rel. AIY Properties, Inc. v. Scott*, 8th Dist. Cuyahoga No. 112962; and (7) *State ex rel. AIY Properties, Inc. v. Scott*, 8th Dist. Cuyahoga No. 113029, convince this court of a pattern of delay in forcible entry and detainer actions in the respondents’ court. Accordingly, this court issues the peremptory writs of

mandamus and procedendo and orders the respondents to proceed to judgment forthwith and without delay in all pending forcible entry and detainer cases, even though the underlying case has proceeded to judgment.

{¶ 5} Respondents to pay costs. This court directs the clerk of courts to serve all parties notice of the judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶ 6} Writs of mandamus and procedendo issued.

MICHAEL JOHN RYAN, JUDGE

KATHLEEN ANN KEOUGH, P.J., and
SEAN C. GALLAGHER, J., CONCUR