

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Oakridge Investment Group, LLC

Court of Appeals No. L-12-1001

Appellee

Trial Court No. CVG-11-06842

v.

Janelle Y. Leach

DECISION AND JUDGMENT

Appellant

Decided: March 29, 2013

* * * * *

Matthew L. Weisenburger, for appellee.

Brian M. Ramsey, for appellant.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a default judgment issued by the Toledo Municipal Court on December 8, 2011. Appellee leased a home owned by appellant from November 2006 until April 2011. Appellant received notice from her employer, RGIS, on November 7, 2010, that she was being transferred to Laredo, Texas. The transfer was effective November 28, 2010.

{¶ 2} On April 28, 2011, appellee filed suit for past rent and damages. In the suit, appellee sought relief in the amount of \$5,971.11. Appellant did not file an answer. On September 15, 2011, appellee filed a motion for default judgment which was granted in the amount sought of \$5,971.11. However, the amount of the judgment was subsequently crossed out. A new handwritten judgment amount of \$12,402.11 was inserted in the modified entry. The entry was journalized on December 8, 2011. This appeal ensued.

{¶ 3} Appellant sets forth the following two undisputed assignments of error:

I. THE TRIAL COURT ERRED WHEN IT GRANTED
PLAINTIFF APPELLEE A JUDGMENT FOR TWELVE THOUSAND
FOUR HUNDRED TWO AND 11/100 DOLLARS (\$12,402.11) WHEN
HIS DEMAND HAD ONLY BEEN FOR FIVE THOUSAND NINE
HUNDRED SEVENTY ONE AND 11/100 DOLLARS (\$5,971.11).

II. THE TRIAL COURT ERRED BY AMENDING PLAINTIFF-
APPELLEE'S COMPLAINT TO INCREASE ITS DAMAGES AMOUNT
WITHOUT FULLFILLING [SIC] THE REQUIREMENTS UNDER
CIV.R. 54(C) AND CIV.R. 15(B) [SIC]

{¶ 4} The following undisputed facts are relevant to this appeal. Appellant leased a home owned by appellee from November 2006 until April 2011. Appellant received notice from her employer, RGIS, on November 7, 2010, that she was being transferred to Laredo, Texas. The transfer was effective November 28, 2010. Appellant immediately

notified appellee through its agent regarding her job transfer and relocation, necessitating her departure from the leased premises during the term of the lease.

{¶ 5} Following this notification, appellant received no responsive communications from appellee. Subsequently, on March 10, 2011, appellee's attorney issued a demand to appellant for payment of claimed damages and lost rent. Appellant contacted appellee's attorney to attempt to negotiate a cooperative settlement between the parties. It was not successful.

{¶ 6} On April 28, 2011, appellee filed suit for past rent and damages against appellant. Appellant did not file an answer. On September 15, 2011, appellee filed a motion for default judgment. Default judgment was granted in the amount sought of \$5,971.11. However, the amount of the judgment was later manually crossed out. A substituted judgment amount of \$12,402.11 was inserted by hand into the entry.

{¶ 7} Appellant's assignments of error are rooted in the same argument. The trial court erred in altering appellee's complaint to increase damages contrary to the parameters of Civ.R. 54(C) and Civ.R. 15(B).

{¶ 8} Notably, the parties concur that the change to the damages amount was done in error. The parties concur that the rules of civil procedure were not followed and the default judgment amount was not correct. The parties concur that the correct amount of damages is \$5,971.11.

{¶ 9} Wherefore, this court finds that the \$12,402.11 judgment amount inserted into the default judgment was incorrect. We find appellant's assignments of error well-taken.

{¶ 10} On consideration whereof, the judgment of the Toledo Municipal Court is reversed and the original default judgment amount against appellant of \$5,971.11 is hereby reinstated. Pursuant to App.R. 24, costs of this appeal are assessed to appellee.

Judgment reversed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.