

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

Star Management, LLC

Court of Appeals No. L-12-1342

Appellee

Trial Court No. CVG-12-07065

v.

Tamatha L. Fayne

DECISION AND JUDGMENT

Appellant

Decided: May 30, 2014

* * * * *

Tamatha L. Fayne, pro se.

* * * * *

PIETRYKOWSKI, J.

{¶ 1} Appellant, Tamatha Fayne, appeals the November 5, 2012 judgment of the Toledo Municipal Court which, following a trial to the court, awarded appellee, Star Management, LLC, \$1,405 for unpaid rent and damages to its rental property. Because we find no error, we affirm.

{¶ 2} The relevant facts are as follows. On April 24, 2012, appellee filed a complaint against appellant alleging damages for unpaid rent and damage to the rental property totaling \$4,084.30. On July 18, 2012, appellant filed her answer denying the majority of the amounts owed and damages alleged and arguing that, based on her calculations, she owed a total of \$75. Appellant further argued that had she been permitted to return to the premises, she would have been able to clean, thus decreasing the amount owed and entitling her to \$347 of the \$725 security deposit.

{¶ 3} On October 22, 2012, the matter proceeded to trial. Property manager Prudence Molinari testified that appellant's lease term was from approximately March 2009 through February 2011. Molinari also testified regarding the alleged damage to the property as well as unpaid rent for the months of January through March 2011. Admitted as evidence were photographs allegedly depicting the condition of the home after appellant vacated. Also admitted were canceled checks that were paid to clean and repair the property.

{¶ 4} On November 5, 2012, the trial court awarded judgment in favor of appellee for \$1,405. Specifically, the court found that appellant failed to pay rent for the months of January through March 2011 (\$1,135), incurred late fees (\$370), and housed a dog in violation of the lease agreement (\$725). In arriving at the sum owed, the court totaled the amounts and then subtracted appellant's security deposit to which it found she was entitled. The court denied the remainder of appellee's claims. This appeal followed.

{¶ 5} Appellant, pro se, raises the following assignment of error:

It was error for the Toledo Municipal Court to grant the plaintiff rent for January, February, and March 2011 before evidence of payment was presented to the judge.

{¶ 6} In her sole assignment of error, appellant contends that she should be permitted to present evidence of her rental payments to prove that the payments were up-to-date. Attached to her merit brief is a purported copy of a \$205 money order tendered to appellee for January 2011 rent.

{¶ 7} Initially, we note that this court is not permitted to consider exhibits attached to briefs that were not made a part of the lower court record. *State v. Ishmail*, 54 Ohio St.2d 402, 377 N.E.2d 500 (1978), paragraph one of the syllabus. Therefore, because the attached “Appendix” is not a part of the record below, those materials cannot be considered on appeal. *See* App.R. 12(A)(1)(b). In any event, the evidence admitted at trial, specifically “Plaintiff’s Exhibit Composite A” showed that this sum was applied by appellee to appellant’s unpaid rent.

{¶ 8} Appellant’s opportunity to submit evidence to the court was during the proceedings below, particularly during the trial. Upon review of the record, including the trial transcript and evidence presented, we find that the trial court’s judgment was supported by competent evidence. Appellant’s assignment of error is not well-taken.

{¶ 9} On consideration whereof, we find that substantial justice was done the party complaining and the judgment of the Toledo Municipal Court is affirmed. Pursuant to App.R. 24, appellant is ordered to pay the costs of this appeal.

Judgment affirmed.

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

James D. Jensen, 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>.