

DISTRICT OF COLUMBIA COURT OF APPEALS

Diane Oliver v. Sirage Mustafa

929 A.2d 873 (D.C. 2007) · No. Nos. 06-CV-205, 06-CV-508 · Decided August 9, 2007

SUMMARY

The District of Columbia Court of Appeals affirmed a judgment arising from a landlord-tenant dispute involving a security deposit, confiscation of personal property, alleged wrongful eviction, and deplorable housing conditions. The court upheld the entry of default based on the defendant's failure to file an answer, the jury's punitive damages award, the attorneys' fee award based on bad-faith litigation, and the exclusion of evidence deemed irrelevant to damages.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Kramer, Associate Judge; Washington, Chief Judge; Farrell, Associate Judge
JURISDICTION	District of Columbia
DECIDED	August 9, 2007
DOCKET	Nos. 06-CV-205, 06-CV-508
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appellant appealed from a civil judgment entered after default establishing liability, a jury trial on damages, an award of compensatory and punitive damages, and a separate award of attorneys' fees.
STANDARD OF REVIEW	Entry of default based on failure to answer was reviewed for legal error; the determination of relevance and potential jury confusion was reviewed for abuse of discretion; a finding of bad faith was reviewed for clear error; and the award of attorneys' fees was reviewed for abuse of discretion. Damages arguments not raised in post-trial motions were not reviewable.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Diane Oliver v. Sirage Mustafa

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QUESTIONS PRESENTED

1. Whether the trial court erred in entering default against Oliver when she had never filed an answer.
2. Whether the jury could be instructed to consider punitive damages on Mustafa's claims, including intentional tort claims arising from the alleged wrongful eviction and conversion.
3. Whether Oliver preserved her challenges to the punitive-damages verdict, including excessiveness, evidentiary support, and due process.
4. Whether the trial court properly awarded attorneys' fees based on bad-faith litigation.
5. Whether the trial court abused its discretion by excluding evidence concerning an injunction Mustafa had sought against Oliver.

HOLDINGS

1. The trial court properly entered default because Oliver never filed an answer, and Super. Ct. Civ. R. 12(a)(5) mandates default when a defendant fails to answer even if she otherwise defended the action.
2. A default does not automatically entitle the plaintiff to judgment, but well-pleaded factual allegations are admitted and provide a sufficient basis for judgment; legal conclusions and facts that are not well pleaded are not admitted.
3. Punitive damages may be available for intentional torts such as wrongful eviction, conversion, and intentional infliction of emotional distress when the defendant's conduct is aggravated by egregious conduct and a state of mind warranting punitive damages.
4. Oliver waived appellate review of whether the jury was properly instructed regarding which claims could support punitive damages by declining the trial court's offer of an instruction, and she forfeited review of the excessiveness, evidentiary-support, and due-process challenges by failing to raise them in post-trial motions.
5. Attorneys' fees may be awarded upon clear and convincing evidence that a party litigated in bad faith, and the trial court did not abuse its discretion in awarding fees based on Oliver's repeated discovery violations, witness interference, and failure to answer.
6. The trial court did not abuse its discretion by excluding evidence concerning Mustafa's later request for an injunction because the evidence was irrelevant to the damages arising from the earlier tenancy and would have confused the issues.

KEY QUOTATIONS

"Indeed, when a defendant never files an answer, Rule 12(a)(5) mandates default, even if the defendant has 'otherwise defended' her position." (at 877)

“The defendant, by his default, admits the plaintiff’s well-pleaded allegations of fact . . . and is barred from contesting on appeal the facts thus established.” (at 878)

“The record provides ample justification for Judge Ross’ finding and we conclude that there was no abuse of discretion.” (at 880)

FACTUAL BACKGROUND

Mustafa rented a room from Oliver under an oral agreement requiring a \$400 security deposit and monthly rent. He alleged that the rooming house was grossly unsanitary and unsafe, with drug use, prostitution, vermin, defective plumbing, and frequent police activity. After Mustafa complained and decided to move out, Oliver refused to return his security deposit, changed the lock, confiscated his remaining property, and denied him access to the room, leaving him homeless for approximately three months. During the litigation, Oliver also interfered with discovery and potential witnesses, including evicting tenants who spoke with Mustafa's counsel.

PROCEDURAL HISTORY

Mustafa initially sued Oliver in the Small Claims Branch of the Superior Court for return of a security deposit and the value of property allegedly confiscated and disposed of by Oliver. An initial default judgment was vacated after Oliver successfully contested service, and Mustafa filed an amended complaint asserting unlawful eviction, breach of quiet enjoyment, constructive eviction, conversion, emotional-distress claims, retaliation, and security-deposit violations. After repeated failures to appear, participate in discovery, and file an answer, a third default was entered; liability was established by default and the case proceeded to a jury trial on damages. The jury awarded \$11,826 in compensatory damages and \$100,000 in punitive damages, and the trial court awarded \$211,350 in attorneys' fees. The District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Restaurant Equip. & Supply Depot, Inc. v. Gutierrez, 852 A.2d 951, 954-56 (D.C. 2004)
- Iannucci v. Pearlstein, 629 A.2d 555, 558 (D.C. 1993)
- Hudson v. Ashley, 411 A.2d 963, 968 (D.C. 1980)
- Nishimatsu Constr. Co. v. Houston Nat'l Bank, 515 F.2d 1200, 1206 (5th Cir. 1975)
- Elmore v. Stevens, 824 A.2d 44, 46 (D.C. 2003)
- Robinson v. Sarisky, 535 A.2d 901, 906 (D.C. 1988)
- Chatman v. Lawlor, 831 A.2d 395, 400 (D.C. 2003)
- Jonathan Woodner Co. v. Breeden, 665 A.2d 929, 938 (D.C. 1995)
- Nimetz v. Cappadona, 596 A.2d 603, 608 (D.C. 1991)
- Keener v. Karr, 528 A.2d 1236, 1237 (D.C. 1987)
- Fischer v. Estate of Flax, 816 A.2d 1, 12 (D.C. 2003)

- Goffe v. Pickard, 588 A.2d 265, 271 (D.C. 1991)
- Caulfield v. Stark, 893 A.2d 970, 980 (D.C. 2006)
- Turcios v. United States Servs. Indus., 680 A.2d 1023, 1030 (D.C. 1996)
- Jung v. George Washington Univ., 875 A.2d 95, 114 (D.C. 2005), amended by 883 A.2d 104 (D.C. 2005)
- Parker v. Stein, 557 A.2d 1319, 1322 (D.C. 1989)
- Sere v. Group Hospitalization, Inc., 443 A.2d 33, 37-38 (D.C. 1982)
- Bernstein v. Fernandez, 649 A.2d 1064, 1073 (D.C. 1991)
- Brown v. Coates, 102 U.S. App. D.C. 300, 253 F.2d 36 (1958)
- District of Columbia v. Minor, 740 A.2d 523, 533 (D.C. 1999)

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