

NEBRASKA SUPREME COURT

Heritage Bank, Trustee of the Charles L. Gabel Revocable Trust v. James L. Gabel et al.

298 Neb. 961 (2018) · No. No. S-17-363 · Decided February 9, 2018

SUMMARY

The Nebraska Supreme Court reviewed a summary judgment in a forcible entry and detainer action involving unpaid crop-share rent under a farmland lease. The court held that Heritage Bank was the trustee and had standing, but genuine issues of material fact remained concerning delivery instructions, lease compliance, notice of default, and cure. The judgment was reversed and the matter remanded for further proceedings.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Kelch, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.
JURISDICTION	Nebraska
DECIDED	February 9, 2018
DOCKET	No. S-17-363
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Polk County District Court's grant of summary judgment for Heritage Bank on its forcible entry and detainer claim.
STANDARD OF REVIEW	The appellate court independently reviews whether the pleadings and admitted evidence show no genuine issue as to any material fact or ultimate inference and whether the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	James L. Gabel, C.J. Land & Cattle, L.P., MCGFF, LLC v. Heritage Bank, Trustee of the Charles L. Gabel Revocable Trust

TOPICS

summary judgment

landlord tenant

breach of contract

civil procedure

appellate procedure

PRACTICE AREAS

civil procedure

contracts

landlord tenant

trusts

appellate procedure

QUESTIONS PRESENTED

1. Whether Heritage Bank was the proper trustee and real party in interest with standing to bring the action.
2. Whether genuine issues of material fact existed concerning whether James breached the lease by failing to deliver the crop payment on time.
3. Whether Heritage Bank complied with the lease's requirements concerning delivery instructions and written notice of default.
4. Whether James cured any lease breach within the time permitted by the lease.

HOLDINGS

1. Heritage Bank remained the court-appointed trustee and had standing to bring the action because the record contained no order removing it as trustee after Charles Gabel's death.
2. Summary judgment was improper because genuine issues of material fact existed concerning whether Heritage Bank complied with the lease's delivery-direction requirement and whether James received the contractually required notice and opportunity to cure.
3. A judgment must be sufficiently certain in its terms to be enforceable, although the court did not definitively resolve whether the district court's order was invalid because it proceeded on the assumption that the order granted the requested forcible entry and detainer judgment.

KEY QUOTATIONS

"A judgment is the final determination of the rights of the parties in an action." (966)

"The plain language of the lease required Heritage Bank to provide written notice of the default or breach to James, which in turn would allow him 30 days to cure." (969)

FACTUAL BACKGROUND

Charles L. Gabel transferred farmland to a revocable trust and leased the land under a crop-share arrangement requiring delivery of 30 percent of the crops by March 1 of the following year. After Heritage Bank was appointed trustee, James L. Gabel failed to deliver the 2015 crop payment by March 1, 2016, while asserting that he was awaiting instructions concerning the delivery location and had not received the lease-required written notice of default. Heritage Bank served a three-day notice to vacate and filed a forcible entry and detainer action; James later deposited crop-proceeds checks with the court.

PROCEDURAL HISTORY

Heritage Bank sued James L. Gabel, C.J. Land & Cattle, L.P., and MCGFF, LLC, alleging that the leases and assignments were invalid and that James unlawfully possessed farmland after failing to deliver the required 2015 crop payment. The district court granted Heritage Bank summary judgment on the forcible entry and detainer claim and implicitly dismissed the first cause of action, which dismissal was later formalized. The Nebraska

Supreme Court reversed and remanded because genuine issues of material fact existed concerning lease performance, notice of default, and cure.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for further proceedings consistent with the opinion, including resolution of the genuine factual disputes concerning lease performance, delivery instructions, written notice of default, and cure.

CASES CITED

- O'Brien v. Cessna Aircraft Co., ante p. 109, 903 N.W.2d 432 (2017)
- Friedman v. Friedman, 290 Neb. 973, 863 N.W.2d 153 (2015)