

COURT OF APPEALS OF THE STATE OF GEORGIA

**Erma Jean Williams et al. v. American Homes 4 Rent Properties
Eight LLC**

No. A16D0190, Court of Appeals of the State of Georgia (January 11, 2016)

OPINION

PER CURIAM.

Court of Appeals of the State of Georgia ATLANTA, _____ January 07, 2016
The Court of Appeals hereby passes the following order: A16D0190. ERMA JEAN WILLIAMS et al. v. AMERICAN HOMES 4 RENT PROPERTIES EIGHT LLC. In this dispossessory action, American Homes 4 Rent Properties Eight, LLC filed a motion to compel payment of rent into the registry of the court, which the trial court granted on November 30, 2015.

On December 15, 2015, the applicants filed this application for discretionary appeal, arguing that the superior court erred when it granted a writ of possession and compelled the payment of rent. We lack jurisdiction.

The only order submitted in the application materials is the order granting American Homes 4 Rent's motion to compel payment of rent and providing that a writ of possession would be entered instantan should the defendants fail to comply.

As to that order, the application is untimely. Generally, an application for discretionary appeal must be filed within 30 days of entry of the order sought to be appealed. See OCGA § 5-6-35 (d). But the underlying subject matter of an appeal controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994).

OCGA § 44-7-56 provides that an appeal from any dispossessory judgment must be filed within seven days of the date the judgment was entered. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Here, the application was not filed until 15 days after entry of this order.

Accordingly, this application is untimely, and it is hereby DISMISSED. Court of Appeals of the State of Georgia 01/07/2016 Clerk's Office, Atlanta, _____ I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia. Witness my signature and the seal of said court hereto affixed the day and year last above written., Clerk.