

VERMONT SUPERIOR COURT, CIVIL DIVISION, WINDSOR UNIT

215 Summer Street, LLC v. Melissa Thibodeau et al.

215 Summer Street · No. 23-CV-05356 · Decided January 8, 2026

SUMMARY

The Vermont Superior Court denied the plaintiff’s duplicate motions under V.R.C.P. 60(b)(1) seeking relief from a judgment on a no-cause eviction claim. The court held that filing the ejectment complaint before the notice’s termination date was premature, did not constitute judicial error warranting relief, and that the plaintiff’s failure to amend the complaint was not a basis for reopening the judgment.

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Windsor Unit
WRITING FOR THE COURT	Kerry A. McDonald-Cady
JURISDICTION	Vermont Superior Court, Civil Division, Windsor Unit
DECIDED	January 8, 2026
DOCKET	23-CV-05356
DISPOSITION	other
PROCEDURAL POSTURE	The plaintiff moved under Vermont Rule of Civil Procedure 60(b)(1) for relief from a final judgment denying its no-cause ejectment claim. The court decided the duplicate motions without a hearing and denied them.
STANDARD OF REVIEW	The court applied the Rule 60(b)(1) standard for relief from judgment and considered whether the alleged legal error constituted mistake, inadvertence, surprise, or excusable neglect. Relief from judgment is reserved for extraordinary circumstances and is not a substitute for a timely appeal.
PRECEDENTIAL VALUE	Unknown; unreported Vermont Superior Court order
PARTIES	215 Summer Street, LLC v. Melissa Thibodeau, Debra Tilton, Joshua Thibodeau

TOPICS

- civil procedure
- landlord tenant
- eviction
- statutory interpretation
- remedies

PRACTICE AREAS

civil procedure

landlord-tenant law

real property

remedies

QUESTIONS PRESENTED

1. Whether an allegation of judicial legal error falls within the meaning of mistake under Vermont Rule of Civil Procedure 60(b)(1).
2. Whether the trial court erred by determining that the plaintiff's no-cause ejectment claim was premature because the complaint was filed before the tenancy termination date.
3. Whether the plaintiff's failure to amend its complaint after the termination date justified relief from the final judgment under Rule 60(b)(1).

HOLDINGS

1. An allegation of judicial error of law may fall within the meaning of mistake under V.R.C.P. 60(b)(1), but relief remains subject to the rule's extraordinary-circumstances limitation and cannot serve as a substitute for a timely appeal.
2. A landlord may not maintain an ejectment or eviction claim based on a termination notice before the notice's termination date has passed; the claim is premature because the tenancy has not yet ended.
3. A party's tactical decision not to amend a premature complaint after the claim became ripe does not constitute a basis for Rule 60(b)(1) relief.

KEY QUOTATIONS

“Punctilious compliance with all statutory eviction procedures, including notice provision is required in residential leases.”

“It is thus resolutely “only when the lessee holds without right after the determination of the lease that a plaintiff can resort to the remedy.””

“The Residential Rental Agreements Act statutory requirements to ensure that tenants are provided with proper notice before being evicted fall squarely within a tenant’s due process rights to notice that V.R.C.P. 1 was not intended usurp.”

FACTUAL BACKGROUND

The plaintiff sought ejectment based on a no-cause termination notice effective December 31, 2023, and a separate notice alleging violations of the written lease. It filed the ejectment complaint on December 22, 2023, before the no-cause termination date. Following a bench trial, the court denied the no-cause ejectment claim as premature, and the plaintiff later sought Rule 60(b)(1) relief based on alleged trial-court legal error.

PROCEDURAL HISTORY

The plaintiff filed an ejectment complaint on December 22, 2023, nine days before the termination date stated in its no-cause notice. After a bench trial, the court entered judgment on January 2, 2025, concluding that the no-cause ejectment claim was premature because the tenancy had not terminated when the complaint was filed. The

plaintiff then filed duplicate Rule 60(b)(1) motions asserting legal error and seeking to reopen the litigation as to that count.

DISPOSITION

other

CASES CITED

- Kemp v. United States, 596 U.S. 528, 534 (2022)
- Neathawk v. Langlois, 2024 WL 166966, at *3 (Vt. Jan. 12, 2024)
- Bigelow v. Bigelow, 168 Vt. 618, 721 A.2d 98 (1998)
- Adamson v. Dodge, 174 Vt. 311, 327, 816 A.2d 455 (2002)
- Okemo Mountain, Inc. v. Okemo Trailside Condominiums, Inc., 139 Vt. 433, 436, 431 A.2d 457 (1981)
- John A. Russell Corp. v. Bohlig, 170 Vt. 12, 24, 739 A.2d 1212 (1999)
- Richwagen v. Richwagen, 153 Vt. 1, 4, 568 A.2d 419 (1989)
- Andrus v. Dunbar, 2005 VT 48, 178 Vt. 554
- In re Soon Kwon, 2011 VT 26, ¶ 14, 189 Vt. 598, 19 A.3d 139
- Sabourin v. Woish, 116 Vt. 385, 387, 78 A.2d 333 (1950)
- In re Parker, 2001 WL 34050702, at *2 (Bankr. D. Vt. Apr. 24, 2001)
- Northgate Hous. Ltd. v. Kirkland, 2002 WL 34422174, at *3 (Vt. Nov. 2002)
- Avdich v. Kleinert, 69 Ill. 2d 1, 12 Ill. Dec. 700, 370 N.E.2d 504, 508 (Ill. 1977)
- Hous. Auth. of the City of Newark v. Caldwell, 247 N.J. Super. 595, 589 A.2d 1088, 1089 (N.J. Super. Ct. Law Div. 1991)
- Boyer v. Niquette, 2014 WL 3714703, at *2 (Vt. Jan. 7, 2014)
- Bean v. Bickford, 2009 WL 8019257 (Vt. Super. Ct. May 22, 2009)
- Penland v. Warren, 2018 VT 70, ¶ 7, 208 Vt. 15

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