

SUPREME COURT OF KENTUCKY

Shinkle v. Turner

496 S.W.3d 418 (Ky. 2016) · Decided August 25, 2016

SUMMARY

The Kentucky Supreme Court held that a landlord may not file a forcible detainer action before the one-month written notice period required by KRS 383.195 expires. Because the landlord filed the complaint eight days after providing notice, the cause of action had not accrued when the action commenced, and the district court should have dismissed it. The court reversed the Boone Circuit Court and vacated the Boone District Court judgment, applying the public-interest exception to mootness.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Venters; Chief Justice Minton; Justice Cunningham; Justice Hughes; Justice Keller; Justice Noble; Justice Wright
JURISDICTION	Kentucky
DECIDED	August 25, 2016
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Tenant appealed a forcible-detainer judgment after the landlord filed the complaint eight days after giving written notice to vacate. The Kentucky Supreme Court granted discretionary review to determine whether filing before expiration of the statutory one-month notice period complied with the forcible-entry-and-detainer statutes.
STANDARD OF REVIEW	De novo review because the issue presented a question of statutory interpretation and a matter of law.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential.
PARTIES	Lesley D. Shinkle v. Bobby D. Turner

TOPICS

eviction

landlord tenant

statutory interpretation

mootness

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a landlord may commence a forcible-detainer action before the one-month written notice period required by KRS 383.195 has expired.
2. Whether the appeal should be dismissed as moot after the tenant vacated the premises during the appellate process.

HOLDINGS

1. The public-interest exception to the mootness doctrine permitted the court to decide the appeal because the statutory forcible-detainer issue was public in nature, required authoritative guidance for future courts and public officers, and was likely to recur.
2. A landlord must give a tenant at least one month's written notice to vacate under KRS 383.195, and no forcible detainer exists until that period expires. A complaint filed before expiration of the notice period is premature and must be dismissed.

KEY QUOTATIONS

“As required by KRS 383.195, a landlord must give the tenant at least one month’s written notice to vacate, and until that period expires, no forcible detainer is being committed.” (423)

“The complaint filed prior to the existence of the cause of action should have been dismissed pursuant to the motion properly raising the issue.” (423)

FACTUAL BACKGROUND

On February 10, 2014, landlord Bobby D. Turner gave tenant Lesley D. Shinkle written notice to vacate. Turner filed a forcible-detainer complaint eight days later, before the one-month statutory notice period had expired. Although the district court continued the inquisition until the month had elapsed, it denied Shinkle's motion to dismiss and entered a forcible-detainer judgment.

PROCEDURAL HISTORY

Turner filed a forcible-detainer complaint in Boone District Court before the one-month notice period had expired. The district court deferred the statutory inquisition until the notice period elapsed, denied Shinkle's motion to dismiss, and entered judgment against Shinkle. The Boone Circuit Court affirmed, the Court of Appeals denied discretionary review, and the Kentucky Supreme Court granted discretionary review. During the appellate process Shinkle vacated the premises, but the Supreme Court reached the merits under the public-interest exception to mootness.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Kentucky Supreme Court reversed the Boone Circuit Court's opinion and order and vacated the Boone District Court's forcible-detainer judgment. The premature complaint should have been dismissed; the opinion does not state a separate remand directive beyond the vacatur and required dismissal.

CASES CITED

- Pennyrile Allied Community Services, Inc. v. Rogers, 459 S.W.3d 339, 342 (Ky. 2015)
- Morgan v. Getter, 441 S.W.3d 94, 99, 102 (Ky. 2014)
- McHugh v. Knippert, 243 S.W.2d 654, 655 (Ky. 1951)
- Baker v. Ryan, 967 S.W.2d 591, 592 (Ky. App. 1997)
- Bledsoe v. Leonhart, 305 Ky. 707, 205 S.W.2d 483, 484 (1947)
- Belcher v. Howard, 212 Ky. 816, 280 S.W. 131, 131 (1926)
- Hall's Ex'rs v. Robinson, 291 Ky. 631, 165 S.W.2d 163, 166 (1942)
- Engle v. Tennis Coal Co., 125 Ky. 239, 101 S.W. 309, 310 (1907)
- Abel v. Austin, 411 S.W.3d 728, 736 (Ky. 2013)
- Pack v. Feuchtenberger, 232 Ky. 267, 22 S.W.2d 914, 917 (1929)
- Goodwin v. Beutel, 256 S.W.2d 532 (Ky. 1953)
- Clay v. Terrill, 670 S.W.2d 492 (Ky. App. 1984)
- Powers v. Sutherland, 62 Ky. 151 (Ky. 1864)
- Taylor v. Monohan, 71 Ky. 238 (1871)
- Jobe v. Witten, 305 Ky. 457, 204 S.W.2d 575, 576 (1947)
- Chiles v. Stephens, 10 Ky. 340, 345-346 (1821)
- Morgan v. Morgan, 309 Ky. 581, 218 S.W.2d 410, 411 (1949)
- Delph v. Bank of Harlan, 292 Ky. 387, 166 S.W.2d 852, 853 (1942)