

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Arne Moltis v. Aleisha Adams

Moltis · No. No. 13-0920 · Decided March 14, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed circuit court orders concerning a residential landlord-tenant dispute. The court held that the tenant's recusal motion was untimely and meritless, and that the circuit court did not abuse its discretion in finding the apartment uninhabitable due to a water leak and lack of a working refrigerator. The court upheld the suspension of rent for August and September 2013, the order requiring provision of a working refrigerator, and the direction to resume rent payments in October.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	March 14, 2014
DOCKET	No. 13-0920
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed two orders of the Circuit Court of Kanawha County: an order determining that respondent owed no rent for August and September 2013 because the apartment was uninhabitable, requiring petitioner to provide a working refrigerator, and directing respondent to resume rent payments on October 1, 2013; and an order denying petitioner's motion for judicial recusal as untimely.
STANDARD OF REVIEW	For a judgment following a bench trial, the final order and ultimate disposition are reviewed for abuse of discretion, underlying factual findings are reviewed for clear error, and questions of law are reviewed de novo. The denial of the recusal motion was reviewed for correctness, including whether the motion was untimely and whether the asserted basis demonstrated bias.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision

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Arne Moltis v. Aleisha Adams

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QUESTIONS PRESENTED

1. Whether the circuit court correctly denied Moltis's motion for Judge Bloom's recusal as untimely and meritless.
2. Whether the circuit court abused its discretion by finding the apartment uninhabitable and excusing Adams's rent for August and September 2013, ordering a working refrigerator, and directing rent payments to resume on October 1, 2013.

HOLDINGS

1. The circuit court correctly denied Moltis's recusal motion because it was untimely under Rule 17.01 and, on the merits, alleged bias only because the judge ruled for Adams, which was insufficient to establish grounds for recusal.
2. The circuit court did not abuse its discretion by finding the apartment uninhabitable, excusing Adams's rent for August and September 2013, requiring Moltis to provide a working refrigerator within seventy-two hours, and directing Adams to resume paying rent on October 1, 2013.

KEY QUOTATIONS

“In reviewing challenges to the findings and conclusions of the circuit court made after a bench trial, a two-pronged deferential standard of review is applied. The final order and the ultimate disposition are reviewed under an abuse of discretion standard, and the circuit court’s underlying factual findings are reviewed under a clearly erroneous standard. Questions of law are subject to a de novo review.” (2)

“There is, in a written or oral lease of residential premises, an implied warranty that the landlord shall at the commencement of a tenancy deliver the dwelling unit and surrounding premises in a fit and habitable condition and shall thereafter maintain the leased property in such condition.” (2)

“The tenants [sic] duty to pay rent is dependent upon the landlord’s fulfillment of the implied warranty of habitability.” (2)

FACTUAL BACKGROUND

Pursuant to a May 1, 2013 rental agreement, Moltis rented Adams an apartment in South Charleston, West Virginia, for \$400 per month, with Adams responsible for utilities. A water leak caused Adams's monthly water bill to increase to \$227, and the supplied refrigerator stopped working, causing her to lose food for herself and her son. The circuit court found the property uninhabitable, excused rent for August and September 2013,

ordered Moltis to provide a working refrigerator within seventy-two hours, and directed Adams to resume paying rent on October 1, 2013.

PROCEDURAL HISTORY

Moltis sued Adams in the Magistrate Court of Kanawha County for wrongful occupation based on nonpayment of rent and prevailed on August 16, 2013. Adams appealed, and the circuit court conducted a trial de novo, finding the rental property uninhabitable and granting rent-related relief to Adams. Moltis moved for Judge Bloom's recusal, which the circuit court denied as untimely, and he then appealed both orders to the Supreme Court of Appeals of West Virginia.

DISPOSITION

affirmed

CASES CITED

- Public Citizen, Inc. v. First Nat'l Bank in Fairmont, 198 W. Va. 329, 480 S.E.2d 538 (1996)
- Teller v. McCoy, 162 W. Va. 367, 253 S.E.2d 114 (1978)

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