

SUPREME COURT OF IOWA

War Eagle Village Apartments v. Plummer

775 N.W.2d 714 (Iowa 2009) · No. No. 07-1217 · Decided November 20, 2009

SUMMARY

The Iowa Supreme Court held that Iowa's statutory notice scheme for residential forcible entry and detainer actions, which deemed certified-mail service complete upon mailing without requiring a signed receipt, violated the due process clause of the Iowa Constitution. The court concluded that the scheme was not reasonably calculated to provide tenants with timely notice and a meaningful opportunity to be heard, reversed the order issuing a writ of removal, and declined to reach the equal protection and federal due process claims.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Baker, Justice
JURISDICTION	Iowa
DECIDED	November 20, 2009
DOCKET	No. 07-1217
DISPOSITION	reversed
PROCEDURAL POSTURE	Plummer sought discretionary review of a district court order affirming a default judgment for possession and issuing a writ of removal in a forcible entry and detainer action.
STANDARD OF REVIEW	Constitutional claims are reviewed de novo; statutory-construction issues are reviewed for errors at law.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential.
PARTIES	Geneva Plummer v. War Eagle Village Apartments

TOPICS

- service of process
- eviction
- due process
- landlord tenant
- statutory interpretation

PRACTICE AREAS

- landlord-tenant law
- constitutional law
- civil procedure
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether Iowa Code section 562A.29A(2), construed with section 562A.8 and the seven-day hearing requirement in section 648.5, violates the due process provision of the Iowa Constitution because certified-mail service is deemed complete upon mailing without requiring a signed receipt.
2. Whether Iowa Code section 562A.29A(2) can be construed to require a signed return receipt before service is complete.
3. Whether Iowa Code section 562A.29A(2) violates the equal protection clause of the Iowa Constitution by applying to residential tenants but not commercial or agricultural tenants.
4. Whether the statutory scheme violates the Due Process Clause of the United States Constitution.

HOLDINGS

1. Iowa Code sections 562A.29A(2) and 562A.8, read with the seven-day hearing requirement in section 648.5, are unconstitutional on their face under the Due Process Clause of the Iowa Constitution because they do not require notice reasonably calculated to reach the tenant at a meaningful time before the eviction hearing.
2. A signed return receipt is not required for service of a forcible-entry-and-detainer petition on a residential tenant under Iowa Code section 562A.29A(2).
3. The court did not reach the equal protection claim or the Federal Due Process Clause claim after holding that the statutory scheme violated the Iowa Constitution's Due Process Clause.

KEY QUOTATIONS

“Because section 562A.29A(2), read in conjunction with section 562A.8 and the seven-day hearing requirement, does not require service which is reasonably calculated to reach the intended recipient, we find the means chosen to provide notice in this FED action violate the due process clause of the Iowa Constitution.” (721)

“There is no set of facts under which the FED statutory notice scheme could be found to provide adequate notice.” (722)

“Therefore, we reverse the district court's order issuing a writ of removal.” (723)

FACTUAL BACKGROUND

Plummer rented an apartment at War Eagle Village and became delinquent on \$67 in rent. War Eagle mailed the forcible-entry-and-detainer notice by certified mail on July 24, 2006, but made no attempt at personal service; the hearing was set for July 31. Plummer did not receive the notice until August 2, after the hearing, and a default judgment was entered ordering her removal. The record indicated that certified-mail delivery procedures could result in notice being left at or sent from the post office after the hearing date.

PROCEDURAL HISTORY

War Eagle commenced a forcible entry and detainer action after Plummer failed to pay delinquent rent. Plummer did not appear at the scheduled hearing because she had not received the certified-mail notice before the hearing,

and the court entered a default judgment ordering her removal. The district court later held an evidentiary hearing and affirmed the judgment, rejecting Plummer's due process, equal protection, and statutory-construction arguments. The Supreme Court of Iowa granted discretionary review and reversed.

DISPOSITION

reversed

CASES CITED

- State v. Nail, 743 N.W.2d 535, 538-39 (Iowa 2007)
- State v. Sluyter, 763 N.W.2d 575, 579 (Iowa 2009)
- Sims v. NCI Holding Corp., 759 N.W.2d 333, 339 (Iowa 2009)
- State v. Bower, 725 N.W.2d 435, 441 (Iowa 2006)
- Sanchez v. State, 692 N.W.2d 812, 819 (Iowa 2005)
- Dusenbery v. United States, 534 U.S. 161, 167 (2002)
- F.K. v. Iowa District Court, 630 N.W.2d 801, 805, 808 (Iowa 2001)
- Greene v. Lindsey, 456 U.S. 444, 449-51 (1982)
- Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 313-15 (1950)
- Jones v. Flowers, 547 U.S. 220, 234-35, 238 (2006)
- Fuentes v. Shevin, 407 U.S. 67, 80 (1972)
- Armstrong v. Manzo, 380 U.S. 545, 552 (1965)
- Washington State Grange v. Washington State Republican Party, 552 U.S. 442 (2008)
- Sabri v. United States, 541 U.S. 600, 609 (2004)
- Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 347 (1936) (Brandeis, J., concurring)
- State v. Reed, 618 N.W.2d 327, 332 (Iowa 2000)
- Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 895 (1992)
- Gonzales v. Carhart, 550 U.S. 124, 167 (2007)