

SUPREME COURT OF VERMONT

JW, LLC v. Ayer and Martell

197 Vt. 118 (2014) · No. 2013-089 · Decided July 18, 2014

SUMMARY

The Vermont Supreme Court interpreted 12 V.S.A. § 4854a, which permits a landlord to dispose of personal property remaining on premises after eviction. The court held that the statute did not confer ownership on the landlord or require return of the property, but that any benefit obtained from selling or retaining valuable property could support an unjust-enrichment claim. The court reversed the order requiring return of the property and remanded for a hearing on the value of any benefit received.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Dooley, J.; Reiber, C.J.; Skoglund, J.; Robinson, J.; Morse, J. (Ret.), specially assigned
JURISDICTION	Vermont
DECIDED	July 18, 2014
DOCKET	2013-089
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Landlord appealed from the Superior Court, Chittenden Unit, Civil Division's final order requiring return of tenants' personal property after execution of a writ of possession and awarding landlord damages for unpaid rent and property repairs.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	JW, LLC v. Brian M. Ayer, Debbie Martell

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether 12 V.S.A. § 4854a authorizes a landlord, fifteen days after service of a writ of possession, to dispose of any personal property remaining on leased premises, including valuable property and not merely trash.
2. Whether 12 V.S.A. § 4854a transfers ownership of the remaining personal property to the landlord or permits the landlord to retain its value without compensating the tenant.
3. Whether the trial court made the findings required for a possessory writ of attachment under V.R.C.P. 4.1(b)(4).

HOLDINGS

1. When the statutory conditions are met, 12 V.S.A. § 4854a authorizes a landlord to dispose of any personal property remaining in a dwelling unit or leased premises fifteen days after service of a writ of possession, without notice or liability to the tenant or owner of the property. The authority is not limited to trash or valueless property.
2. Section 4854a does not transfer ownership of the tenant's personal property to the landlord and does not permit the landlord to retain a benefit obtained from valuable property without compensating the tenant. Any benefit realized from sale or retention of the property is subject to an unjust-enrichment claim.
3. Because the record did not establish the value of any benefit landlord received from the tenants' property, the matter must be remanded for a further hearing, with any resulting amount offset against landlord's existing judgment.

KEY QUOTATIONS

“The phrase “dispose of” connotes more than throwing out trash—it is used to signify any number of methods for dealing with property, including transferring it, discarding it, or destroying it.” (¶ 15)

“The statute’s plain language allows a landlord to “dispose” of property without liability, but does not grant ownership of the property to the landlord.” (¶ 20)

“A person who is unjustly enriched at the expense of another is subject to liability in restitution.” (¶ 22)

FACTUAL BACKGROUND

Tenants leased a single-family home from JW, LLC and failed to pay substantial rent beginning in 2012. After an eviction proceeding, the sheriff executed a writ of possession and removed the tenants, leaving substantial personal property on the premises, including automotive and carpentry tools and vehicles or equipment. The landlord hired movers, discarded some items, retained other items in storage, denied the tenants access, and sought substantial payment for removal and storage.

PROCEDURAL HISTORY

After tenants were evicted and their personal property was removed from the premises, the trial court ordered landlord to return the property. The trial court rejected landlord's argument that 12 V.S.A. § 4854a authorized retention of the property, awarded landlord a monetary judgment for rent, repairs, cleaning, and attorney's fees, and denied or did not reach the requested possessory writ of attachment. The Vermont Supreme Court reversed the property-return order and remanded for a hearing to determine any unjust-enrichment benefit received by landlord and to offset that amount against landlord's judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Conduct a further hearing to determine the value of any benefit landlord received from the tenants' personal property through sale or retention, and offset any resulting amount against landlord's judgment. Proceedings should otherwise be consistent with the opinion.

CASES CITED

- Chayer v. Ethan Allen, Inc., 2008 VT 45, ¶ 9, 183 Vt. 439, 954 A.2d 783
- Vt. Human Rights Comm'n v. State, Agency of Transp., 2012 VT 45, ¶ 5, 191 Vt. 485, 49 A.3d 149
- Ran-Mar, Inc. v. Town of Berlin, 2006 VT 117, ¶ 5, 181 Vt. 26, 912 A.2d 984
- Parker v. Taylor, 150 P.3d 127, 129 (Wash. Ct. App. 2007)
- Cedric Elec., Inc. v. Shea, 144 Vt. 85, 86, 472 A.2d 757, 757 (1984) (per curiam)
- DJ Painting, Inc. v. Baraw Enters., Inc., 172 Vt. 239, 242, 776 A.2d 413, 417 (2001)
- Kellogg v. Shushureba, 2013 VT 76, ¶ 22, 82 A.3d 1121
- In re Estate of Elliot, 149 Vt. 248, 253 n.2, 542 A.2d 282, 285 n.2 (1988)