



A Three Judge Panel convened on August 7, 2020, acting as a special court pursuant to 25 *Del. C.* §5717(a).<sup>1</sup> This panel was comprised of the Honorable James A. Murray, the Honorable Dana M. Tracy and the Honorable Nicole Alston-Jackson. The Court held a trial *De Novo*<sup>2</sup> in reference to a Landlord Tenant Summary Possession petition filed by Anisa Bagi (“Plaintiff”) against Mikahela Ray (“Defendant”). For the following reasons the Court enters *Judgment for Plaintiff*.

### **FACTUAL AND PROCEDURAL BACKGROUND**

The Court has before it a Landlord Tenant Summary Possession petition filed by the Plaintiff seeking back rent and court costs. This action is based on the Defendant’s alleged failure to pay rent.

Trial was held on February 24, 2020, and judgment was entered in favor of Plaintiff.<sup>3</sup> Defendant filed a timely appeal of the Court’s order pursuant to 25 *Del. C.* §5717(a). Accordingly, a trial *de novo* was scheduled and held.

### **PRE-TRIAL**

Upon convening trial, Parties advised Defendant had vacated the rental unit and possession was no longer at issue. After exchanging receipts for paid rent, Parties agreed that Defendant only owed \$40.00 for back rent. Whereas possession was no longer at issue, the Court proceeded to hear the appeal as a debt only case.

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<sup>1</sup> 25 *Del. C.* § 5717(a). *Nonjury trials*. With regard to nonjury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial de novo before a special court comprised of 3 justices of the peace other than the justice of the peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgement, by majority vote....

<sup>2</sup> *De novo* trial. Trying a matter anew; the same as if it had not been heard before and as if no decision had been previously rendered. Black’s Law Dictionary 435 (6<sup>th</sup> ed. 1990).

<sup>3</sup> *Bagi v. Ray*, Del. J.P., C.A. No. JP16-20-000795, Montano, J. (Feb. 4, 2020).

## TESTIMONY AND EVIDENCE

The following is the most pertinent testimony and evidence. The Court will not opine extensively as the Court announced its decision in open court.

Plaintiff testified Defendant owed back rent and monies for replacement of the rental unit's front entry door. She called two witnesses, each confirmed the door had been damaged and required repair. The estimate was \$927.63.<sup>4</sup> Damage was result of a Dover Police Officer (the Police) kicking in the door. Upon notification from the Police about the unsecure door, Plaintiff had the door screwed shut to secure the rental unit.

Defendant admitted that she owes \$40.00 in rent arrears and is willing to pay Plaintiff immediately. She contests that she should be held responsible for any damage to the entry door. She acknowledged she heard someone at the door and looked out the window and saw it was the Police. Thereafter, the Police kicked the door-in causing damage and doing so without a valid search warrant. She further asserts Plaintiff refused to allow her to gain entry into the rental unit upon request for some period of time.

## DISCUSSION

The Court based upon the testimony and evidence finds that a Landlord/Tenant relationship exists between the Parties. Defendant based on her own admission owes back rent in the amount of \$40.00.<sup>5</sup> While the Court heard extensive testimony about damage to the entry door, Plaintiff's petition was based upon non- payment of rent and not a damages claim to the entry door. So, even if, the Court determined Plaintiff proved Defendant was responsible(which it does not)

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<sup>4</sup> Plaintiff's exhibit #1.

<sup>5</sup> "A judicial admission is a formal statement by a party in the course of judicial proceedings, which removes an admitted fact from the field of controversy." *Pesta v. Warren*, 2004 WL 1172996, at \*1 (Del. Super.).

for the damage to the entry door, the Court would not award any monetary award based upon Plaintiff's pleadings.

### CONCLUSION

After careful consideration of the testimony and evidence presented, the Court finds in favor of Plaintiff unanimously by preponderance of the evidence.

Judgment is hereby entered as follows:

Judgment amount: ***\$40.00.***

Court Costs: ***\$45.00.***

The Court announced its decision and rationale in open Court and reduced it to writing this date.

**IT IS SO ORDERED** this 18<sup>th</sup> day of August 2020.

**For the Court,**

  
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Judge Dana M. Tracy (SEAL)