

IN THE SUPREME COURT OF OHIO

08-0595

Gary L, NUNN

:

On Appeal from the Warren County
Court of Appeals, Twelfth
Appellate District

:

Appellant

-v-

:

:

:

Spring Village Apartments

:

Court of Appeals
Case NO. 2007-07-090

:

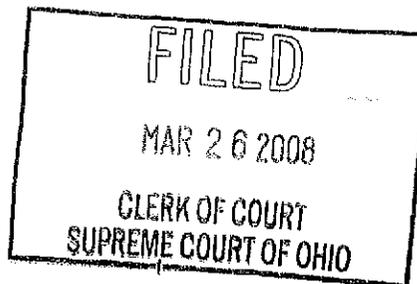
:

Appellees

NOTICE OF APPEAL OF APPELLANT Gary L. Nunn

Gary L. Nunn
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937-674-4503
Pro Se Appellant

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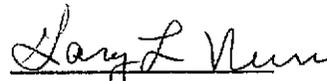


Notice of Appeal of Appellant Gary L. Nunn

Appellant Gary L. Nunn gives notice of appeal to the Supreme Court of Ohio
From the judgment of the Warren County Court of Appeals, Twelfth Appellate District,
Entered in the Court of Appeals Case No. 2007-07-090 on February 11, 2008.

This case raises a substantial constitutional question of rules of court and is one
of public or great general interest.

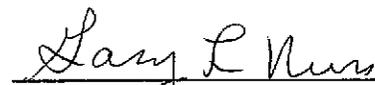
Respectfully Submitted,


Gary L. Nunn, pro se

Certification of Service

I hereby certify that a copy of the foregoing Notice of Appeal was sent to the following counsel for
Appellees by ordinary U.S. Mail postage prepaid on March 26, 2008.

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Gary L. Nunn, Pro Se

STATEMENT OF THE CASE AND FACTS

On March 3, 2006 a small claims complaint was filed in Warren Court for a rent deposit that was placed in escrow in 1985. On May 2, 2006 Spring Village filed a motion to transfer case to regular Civil Docket. On May 3, 2006 a motion was filed by the Court granting to transfer to regular Civil Court 06CV1263. On June 22, 2006 event scheduled for hearing Cancelled by Judge Paige Crossley. On July 19, 2006 Judge Crossley recusses herself due to employment with WCCP Judge Oda assigned. On July 21, 2006 event schedule Cancelled. On October 22, 2006 event schedule Cancelled by Judge Crossley (Judge Crossley is now back in case after recusseling herself. The was a pretrial on December 7, 2006 but is not in the journal but instead Judge Oda's order for a trail and that written decision will be issued on summary judgment. On January 23, 2007 status hearing Cancelled by Judge Crossley. On February 27, 2007 civil hearing status Cancelled by Judge Crossley. On March 23, 2007 civil trial date June 1, 2007 by Judge Crossley. May 29, 2007 Judges order MSJ is granted for defendant to no money damages and cost trail is off. On June 1, 2007 the plaintiff Gary L. Nunn and his attorney Roger D. Staton appeared for trial and no one was in the court room both parties went to the clerk's office and at that time was informed that Judge Oda had issued a judgment in this matter for the defendant two days before the trail and had not notified this party. The plaintiff's attorney Roger D. Staton ask the clerk Holly Toole where the other party was and she informed him that they had contacted them by phone and told them not to appear. On July 7, 2007 plaintiff's attorney Roger D. Staton filed an appeal with the twelfth appeals court 2006CVF 00402. On July 26, 2007 copy of transcript of pretrial filed with the court. On September 27, 2007 motion of appellee Spring Village apartment for leave to file Instanter (the attorney who was representing Spring Village had left the firm and did not tell anyone.) On October 30, 2007 entry granting motion to file appellees brief instanter (this brief was not filed by the same attorney of record and the were no entries asking to be removed.) On November 30 motion filed for an order prohibiting participation of counsel under rule 9 filed. The was an oral agreement in this matter but the date is not in the journal. On December 6, 2007 entry filed by court denying motion for order prohibiting participation of counsel. On November 11, 2008 Judgment entry filed (Affirmed) 548-978.

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EXPLANATION OF WHY THIS CASE IS A CASE OF
PUBLIC OR GREAT GENERAL INTEREST AND
INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

This case presents one critical issue for the general public. The trial court allows three different attorneys to represent the Appellees in this matter. Rule 9 (B) of the appeals rules of court states that counsel seeking to withdraw shall, with a written application showing good cause, submit proof of service upon the client, and the name and address of any substitute counsel, or, if none, the name of the client. In this matter the Attorney of record just left the law firm and failed to notify anyone including the law firm where she was employed and furthermore failed to file a defendants brief in the appeal that was filed. The fact of the matter is, three different attorneys took part in this case and the appeals court allowed this to happen without any of these attorneys filing an appearance of counsel. By the court not following their own rules, I lost my appeal.

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

Proposition of Law The Twelfth Appeals Court rule 9 (A) Every notice of appeal, pleading, motion and brief filed shall have typed or printed thereon the name, Ohio Supreme Court registration number, address, and telephone number of all counsel (or parties, if not represented by counsel). Where a party is represented by more than one counsel, or by a firm of attorneys, one counsel shall be designated as having primary responsibility for the appeal. Counsel so designated shall be responsible for conducting the appeal, including filing of briefs and other memoranda, oral argument, and receipt of notices and pleadings from the court and all parties. (B) Counsel seeking to withdraw shall, with a written application showing good cause, submit proof of service of the withdrawal upon the client, and the name and address of any substitute counsel, or if none, the name of the client.

It is a clear abuse when the court allows a law firm to change attorney's three time's in an appeal'sl case and no notice is filed with the court. In this matter the attorney of record was My'chael Jefferson and this is the only name that appears in the journal in Case No. CA2007-07-090. The fact of the matter is that when this case was filed with the appeals court My'chael Jefferson had left the firm of Coolidge Wall Co., L.P.A. and had not informed anyone in the Company that she was handling the case. There was no letter written as of the filing on July 26, 2007 notice of requirement. On September 27, 2007 Spring Village filed a motion with the court for a brief instanter and this letter the firm explains that My'chael Jefferson had left the firm without telling anyone about this matter. There is no motion in the journal of Case No. CA 2007-07-090 where My'chael Jefferson ask the court to be removed. The brief instanter was filed by a Dina M. Cary who was not the attorney of record in this matter and the court allowed this to be filed. At the oral argument in this case which is not on the journal the was now an another attorney who's name was Christopher R. Conard. The attorney who was representing me ask Mr. Conard why he was there and he inform the attorney that Dina M. Cary had left the firm and was no longer with them and that several attorney's in the firm had decided they did not want to now be attorney's. The attorney who was representing me ask the court to file a Rule 9 at this hearing. The court stated on the record that they would allow him to argue but would rule at a latter time. On December 20, 2007 the appeals court filed an entry denying motion for prohibiting participation of counsel. On February 11, 2008 Judgment entry filed (AFFRIMED) 548-9780

For some unknown reason this Case No. CA 2007-07-090 was not published by the appeals court in this matter.

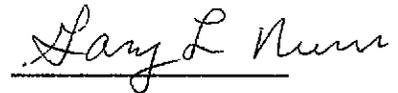
**EXPLANATION OF WHY THIS CASE IS A CASE OF
PUBLIC OR GREAT GENERAL INTEREST AND
INVOLVES A SUBSTANTIAL QUESTION**

This case involves an appeals court that allows a law firm to change attorneys three times without any motion filed with the court regarding Rule 9 of the Appeals Court. The fact that this case was not published for the public for reference leaves great question. This decision does not have the names of the attorney's who represented both parties in this matter and would therefore not allow anyone to research this case for future cases.

Conclusion

For the reason discussed above, this case involves matters of public and great interest and a substantial question. The appellant request that this court accept jurisdiction in this case so that the important issues present will be reviewed on the merits.

Respectfully Submitted

A handwritten signature in cursive script that reads "Gary L. Nunn". The signature is written in black ink and is positioned above a solid horizontal line.

Gary L. Nunn

Certification of Service

I hereby certify that a copy of the foregoing Notice of Appeal and Brief in Support of Jurisdiction was sent to the following for Appellees by ordinary U.S. Mai prepaid on March 25, 2008

My'chael D. Jefferson

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IN THE SUPREME COURT OF OHIO

Gary L. Nunn : On Appeal from the Warren County Court of
Appeals, Twelfth
: Appellate District
Appellant

-v-

Spring Village Apts. : Court of Appeals
: Case No. 20007-07-090

Appendix

Appendix: Appendix Page

Opinion of the Warren County Court of Appeals
(February 11, 2008).....1
No Judgment Entry was Published

COURT OF APPEALS
WARREN COUNTY
FILED

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO FEB 11 2008

WARREN COUNTY

James L. Spaeth, Clerk
LEBANON OHIO

GARY L. NUNN,

Plaintiff-Appellant,

- vs -

SPRING VILLAGE APARTMENTS,

Defendant-Appellee.

CASE NO. CA2007-07-090
(Accelerated Calendar)

JUDGMENT ENTRY

548 978

CIVIL APPEAL FROM WARREN COUNTY COURT
Case No. 2006 CVF 00402

{¶1} This cause is an accelerated appeal from a decision of the Warren County Court granting summary judgment against plaintiff-appellant, Gary Nunn, with respect to his claim for the return of a security deposit.

{¶2} In his sole assignment of error, appellant argues that the trial court erred in granting appellee summary judgment on his claim on the basis that appellant could have, and should have, raised it in a previous action between the parties¹ and, therefore, appellant's claim was barred under the doctrine of res judicata. Appellant asserts that under R.C. 5321.16(B) of Ohio's Landlord Tenant Act, a claim for the return

1. The previous action was styled as *Spring Valley Apartments v. Nunn*, Warren County C.P. Case No. 01CV57974.



of a security deposit cannot be prosecuted until at least 30 days after the termination of the tenancy and, therefore, his tenancy with appellee did not terminate until after the previous action between the parties was resolved in October 2003.

{13} Appellant's assignment of error is overruled on the ground that his tenancy with appellee was terminated for purposes of R.C. 5321.16(B) when he vacated appellee's premises on September 29, 2000 and, therefore, appellant was free to bring his claim for the return of the security deposit 30 days after that date. *Id.* Because appellant did not bring his claim for the return of the security deposit when he brought his other claims in the previous action between the parties, appellant's current claim is barred under the doctrine of res judicata. See *Grava v. Parkman Twp.*, 75 Ohio St.3d 379, 1995-Ohio-331, syllabus; and *Natl. Amusements, Inc. v. Springdale* (1990), 53 Ohio St.3d 60, 62, quoting *Rogers v. Whitehall* (1986), 25 Ohio St.3d 67, 69 ("[A]n existing final judgment or decree between the parties to litigation is conclusive as to all claims which were *or might have been* litigated in a first lawsuit"). (Emphasis sic.)

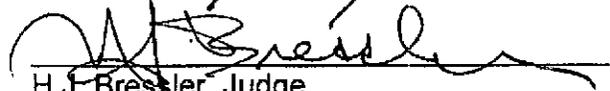
{14} Judgment affirmed.

{15} Pursuant to App.R. 11.1(E), this entry shall not be relied upon as authority and will not be published in any form. A certified copy of this judgment entry shall constitute the mandate pursuant to App.R. 27.

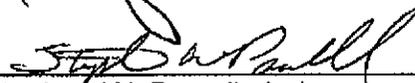
{16} Costs to be taxed in compliance with App.R. 24.



William W. Young, Presiding Judge



H.J. Bressler, Judge



Stephen W. Powell, Judge