

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

RENEW JORDAN CREEK & TRINITY PROPERTY CONSULTANTS, d/b/a VA7 JORDAN CREEK, L.L.C., Plaintiff-Appellant. v. CALEB SADLER, PARTIES IN POSSESSION, Defendant-Appellee.	Case No. SCSC698746 RULING ON APPEAL
---	---

This matter comes before the Court following Plaintiff's appeal in a Forcible Entry & Detainer Action. Upon consideration of the written materials and a review of the court file, and being otherwise duly advised in the premises, the Court REVERSES the Dismissal entered on March 31, 2023 and GRANTS the Petition for Forcible Entry and Detainer, based on the on the reasoning below.

PROCEDURAL HISTORY

On March 17, 2023, Plaintiff filed an Original Notice & Petition for Forcible Entry and Detainer (hereinafter "Petition") under Iowa Code Chapter 648. Hearing was set for March 31, 2023.

On March 31, 2023, Defendant failed to appear for the hearing and no hearing was held. The Court dismissed Plaintiff's Petition with prejudice, finding: "Iowa Code 648.18 peaceable possession applies." (Order for Forcible Entry and Detainer, Mar. 31, 2023).

On April 4, 2023, Plaintiff filed a Motion to Enlarge and Reconsider. The Motion was denied without hearing on April 6, 2023. Plaintiff now appeals.

STANDARD OF REVIEW

This Court conducts a *de novo* review of the record made before the trial court and “may affirm, reverse, modify, or render judgment as the judge or magistrate should have rendered.” Iowa Code § 631.13(4)(a)(1). The Court is to decide the appeal without regard to technicalities or defects which have not prejudiced the substantial rights of the parties. *Id.* Judgment shall be rendered based upon applicable law and upon a preponderance of the evidence. Iowa Code § 631.11 (4).

DISCUSSION

Iowa Code Section 648.18 states: “Thirty days’ peaceable possession with the knowledge of the plaintiff after the cause of action accrues is a bar to this proceeding.” The question in this case is whether the Doctrine of Peaceable Possession applies. The answer to that question hinges on another: when did the cause of action accrue?

In the Petition, Plaintiff asserts the grounds for the FED as “unlawfully holding over after Plaintiff’s termination of [your] tenancy pursuant to Iowa law.” Pursuant to Iowa Code § 562.27, Plaintiff issued a “3-Day Notice of Non-Payment of Rent and 30-Day Notice to Vacate¹.” This gave Defendant three days to cure his non-payment of rent

¹ Plaintiff was *required* to give 30 days’ notice before termination of the lease. Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 § 9058(c)(2020).

and notice that, if he failed to cure by the deadline, his tenancy would terminate 30 days after service of the Notice². That termination date was March 14, 2023.

Defendant did not pay his past-due rent by the cure date, nor did he vacate the premises by the termination date. As a result, Plaintiff had valid grounds to initiate an action for FED based on the Defendant's status as an unlawful holdover tenant. Iowa Code § 648.1(2)³. The cause of action accrued on March 14—the day the lease terminated. See *Des Moines RHF Hous., Inc. v. Spencer*, No. 17-1465, 2018 W 3057604, *2 (Iowa Ct. App. June 20, 2018). Plaintiff initiated the FED just three days later, eliminating any potential defense of “peaceable possession.”

In this case, Plaintiff chose to file the petition against Defendant as a holdover tenant. The Trial Court treated Plaintiff's petition as if it asserted a claim under Iowa Code Section 648.1(5) for non-payment of rent.⁴ This Court will not recast the Petition, but will read it according to its plain language. See *AHEPA 192-1 Apts. v. Smith*, No. 11-0167, 2011 WL 6669744 (Iowa Ct. App. Dec. 21, 2011)(“[S]imply because a landlord may be able to proceed upon more than one theory to terminate a lease and regain

² The Notice was served by regular mailing, certified mailing, and posting. The filed certificate of service and tracking information indicates that mailing occurred on February 7, 2023, which makes service effective on February 11, 2023. Iowa Code § 648.3(3)(Service “is deemed completed four days after the notice is deposited in the mail and postmarked for delivery . . .”). This means the 30-day period ended on March 14, 2023.

³ A separate Notice to Quit is not required before initiation of the FED since Plaintiff gave the three days' notice to quit and terminated the tenancy. Iowa Code Section 648.3(1).

⁴ Plaintiff certainly could have filed a Petition alleging non-payment of rent as the grounds, and that cause of action would have accrued when Defendant failed to pay rent. If that were the case, the doctrine of peaceable possession may have barred Plaintiff from the FED, as the unpaid rent listed goes all the way back to December 2022. There were more than 30 days between the non-payment in December and the filing of the Petition. However, this Court need not decide that issue, as that is not the grounds on which Plaintiff chose to rely.

possession, we know of no requirement that the landlord pursue the legal theory that has either the shortest or longest notice requirements.”).

The Court finds that Plaintiff initiated its action against Defendant as a holdover tenant under Iowa Code Section 648.1(2) and that the cause of action accrued immediately upon termination of the Defendant’s tenancy. The Court finds that the Doctrine of Peaceable Possession does not apply, as Defendant possessed the property for just three days between the cause of action accrual and Plaintiff’s filing of the petition. The Court further finds that the pleadings are sufficient on which to grant relief and the notice requirements have been met. As such, in accordance with Iowa Code Section 631.5(6), default judgment should have been entered against the Defendant when he failed to appear.

ORDER

IT IS THEREFORE ORDERED that the Order Dismissing the Petition of Forcible Entry and Detainer is **REVERSED**. The Petition for Forcible Entry and Detainer for 210 S. Prairie View Drive, 917, West Des Moines, Iowa, 50266 is **GRANTED**.

WRIT SHALL ISSUE.

All court costs are assessed to Defendant/Appellee.

Bond is released to Plaintiff.



State of Iowa Courts

Case Number
SCSC698746

Case Title
//APPEALED//RENEW JORDAN CREEK VS CALEB SADLER/
PIP
ORDER ON APPEAL

Type:

So Ordered

Kristen M. Formanek, District Associate Judge
Fifth Judicial District of Iowa

Electronically signed on 2023-05-01 15:00:35