

STATE OF MAINE
CUMBERLAND, ss

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CUMBERLAND, SC
CLERK'S OFFICE

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-00-098

LOUISE MURPHY,

APR 10 8 45 AM '01

NM-cum-4/10/2001 ✓

Plaintiff

vs.

DECISION AND ORDER

ROBERT HAINS,

Defendant

The defendant appeals the decision of the District Court in this forcible entry and detainer action. The court determined that the plaintiff was entitled to possession of both apartments but not to the storage area.

The lease for apartment #2 expired at noon on 12/30/99.¹ The lease for apartment #3 expired at noon on 9/30/00. The notice to quit was served for both apartments on 9/1/00 with a termination date of 10/1/00. The defendant argues that the notice of termination for apartment #3 was defective because it was served prematurely and because it did not contain required statements identified in the lease agreements.

Based on the transcript of the hearing dated 10/18/00, the District Court's findings of fact and conclusions of law, and the submissions of the parties, the court concludes that the District Court was correct in determining that any procedural errors did not require dismissal of the complaint and that the plaintiff rebutted the

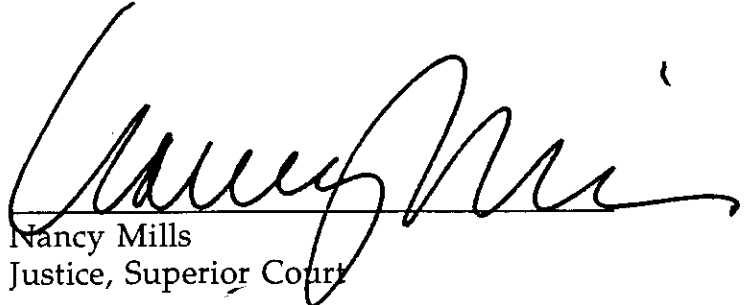
¹The court incorrectly found that both leases expired at midnight, 9/30/00. Findings of Fact and Conclusions of Law, ¶ 1.

presumption that the eviction was retaliatory. See 14 M.R.S.A. §§ 6001 & 6002 (Supp. 2000); Transcript at 9, 11-13, 17, 28-29; 14. The District Court was incorrect in determining that the notice to quit with regard to apartment #3 was sufficient to terminate that tenancy. See 14 M.R.S.A. § 6002; Fisher v. Nelke², 114 Me. 112, 114-15, 95 A. 508, 509-10 (1915); Transcript at 16.

The entry is

With regard to Apartment #2 at 14 Taylor St., Portland, Maine, the Defendant's Appeal is DENIED and the Decision of the District Court is AFFIRMED. With regard to Apartment #3 at 14 Taylor St., Portland, Maine, the Defendant's Appeal is SUSTAINED and the Decision of the District Court is REVERSED. Case REMANDED to the District Court for further proceedings consistent with this Order.

Dated: April 9, 2001

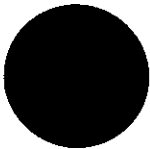


Nancy Mills
Justice, Superior Court

²This case was based on R. S. ch. 96, § 2 (1903), the predecessor to 14 M.R.S.A. § 6002. In 1971, the statute was amended to replace the phrase "[t]enancies at will may be determined" with "[t]enancies at will may be terminated." See P. L. 1971, ch. 322, § 1.

Date Filed 12-7-00 CUMBERLAND
County

Docket No. AP00-98



Action DISTRICT COURT APPEAL - FED

LOUISE V. MURPHY

ROBERT HAINS

vs.

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Date of
Entry