

STATE OF MAINE  
CUMBERLAND, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. AP-21-37

LAPINO LUBUELO  
*et al*

v.

ORDER

THOMAS ROWE

Thomas Rowe, the Appellant, was the Defendant in a small claims matter filed by Lapino Lubuelo. Rowe was Lubuelo's landlord. The court found that Rowe violated the security deposit statute and awarded double damages based on the retention of the security deposit, 14 MRS § 6033-34, along with additional relief.

Rowe filed this appeal objecting to the double damages. He argues that Lubuelo's apartment was exempt from Sections 6033 and 6034 because the apartment was in an owner occupied building. 14 MRS § 6037(2).

Defendant appeals to the Superior Court questions of law only. *See* Order, 3/4/22. On an appeal on questions of law, the Superior Court's review of the District Court must be based on a record prepared pursuant to M.R. Civ. P. 76F. M.R.Sm.Cl.P. 11(d)(1),(3). The appellant, has the burden of providing an adequate record. *Sullivan v. Zimmerman*, 2013 Me. Super. LEXIS 286, \*2-4, citing *Lamb v. Euclid Ambler Assoc.*, 563 A.2d 365, 367 (Me. 1989). "Rule 76F(c) contemplates that when a transcript of the small claims hearing is available, it will be made part of the record on appeal...There is no indication that a full transcript was unavailable and could not have been included in the record." *Id.* The absence of a full transcript precludes meaningful appellate review. *Id.*; citing *Kingsbury v. Forbes*, 1998 ME 168, P 5, 714 A.2d 149, 151.

Entered on the Docket: 11/21/2022

In this case, instead of providing the record, the Defendant merely asserts the “Defendant testified” his unit was owner occupied. There is no record for the court to rely on. The court has no way to determine whether that evidence was before the court. Therefore, the court does not reach the merits of the case and affirms the judgment.

The District Court’s judgment in PORDC-SC-2019-00647 is AFFIRMED.

This Order is incorporated on the docket by reference pursuant to M.R.Civ.P. 79(a).

DATE: 11/16/22

  
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Thomas R. McKeon  
Justice, Maine Superior Court