

STATE OF MAINE

KENNEBEC, ss.

SUPERIOR COURT

CIVIL ACTION

DOCKET T NO. AP-01-79

SKS - KEN - 3/20/2002

ADELEEN MORRILL and
GARDNER MORRILL,

Plaintiffs/Appellants

v.

MARCEL MORIN and
K & K PROPERTY
MANAGEMENT,

Defendants/Appellees

DECISION ON APPEAL

DONALD L. GARBRECHT
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APR 3 2002

This matter comes before the court on appeal from the District Court. After hearing on the small claim on September 13, 2001, the District Court entered judgment for the defendant, supported by enumerated findings of fact. The parties appeared representing themselves. No record was made of the September 13th hearing.

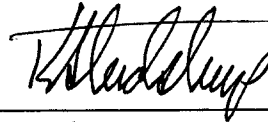
On an appeal of this type, to the issues before the court are: (1) Are the findings of fact made by the court supported by evidence in the record?, (2) Did the court make an error of law?, (3) Did the court abuse its discretion? As noted, the court made detailed findings of fact, the most significant of which were that repairs to the apartment were made by the landlord in a timely fashion and the landlord did not breach the warranty of fitness for human habitation. Since there is no record of the hearing, the appellant court can not confirm evidence to support these findings, and it must be presumed that such evidence existed. The court properly

cited 14 M.R.S.A. § 6021 as the statutory provision under which the claim was being made, and this court finds no error of law. The court also finds no abuse of discretion.

Based on the foregoing, the entry will be:

Appeal DENIED.

Dated: March 20, 2002



S. Kirk Studstrup
Justice, Superior Court

Action Appeal from District Court
Small Claims

J. STUDSTRUP

Gardiner & Adeleen Morrill vs. Marcel Morin

Plaintiff's Attorney

Gardiner & Adeleen Morrill, Pro Se
 164 West Hill Road-4
 Gardiner, Maine 04345

Defendant's Attorney

Marcel Morin, Pro Se
 K & K Property Mgmt.
 943 Lisbon Street
 Lewiston, Maine 04240

Date of Entry

11/13/01	Appeal from Southern Kennebec District Court with all papers, filed.
11/14/01	Notice of briefing schedule mailed to parties.
11/30/01	Appellant's Brief, filed. s/Gardiner & Adeleen Morrill, Pro Se
12/26/01	Appellee's Brief, filed. s/Morin, Pro Se s/Hasting, Pro Se (filed 12/21/01)
2/11/02	Request for postponement of oral arguments on 2/26/02.
2/12/02	REQUEST FOR POSTPONEMENT, Studstrup, J. Request denied. Copies mailed to parties.
2/21/02	Appellant's Reply Brief, filed. s/Adeleen Morrill and Gardner Morrill.
2/26/02	Hearing had on oral arguments with Hon. Justice Kirk Studstrup, presiding. Tape #600 Index 529-1217. Gardiner & Adeleen Morrill, Pro Se Plaintiffs. Marcel Morin, Pro Se Deft. Mary Hastings for the Defendant. Oral arguments made to the court. Plaintiffs move for default. Court defers ruling. Court to take matter <u>under advisement</u> . Court to issue written order.
3/4/02	Copies of letters from Adeleen Morrill and Gardner Morrill to Justice Studstrup, filed.
3/22/02	DECISION ON APPEAL, Studstrup, J. Appeal DENIED. Copies mailed to parties. Copies mailed to Deborah Firestone, Garbrecht Library and Goss.