

STATE OF MAINE

KENNEBEC, ss.

SUPERIOR COURT

CIVIL ACTION

DOCKET NO. AP-04-73

DHM - KEN - 3/18/2005

DIANE ALLEN,

Plaintiff

v.

DECISION AND ORDER

STEPHEN H. SACRE,

Defendant

DOUGLAS J. BROWN
Clerk

JUN 8 2005

This is a small claims appeal from the Augusta District Court. On August 9, 2004, judgment was rendered to the plaintiff in the amount of \$625 and costs of \$78.17 upon her claim asking for a return of a rental deposit plus funds for the value of a dining room set disposed of by the defendant. The defendant filed notice of appeal and did not request a jury trial. Both parties filed letters pro se for purposes of complying with the briefing schedule.

Plaintiff claims, in effect, that she was constructively evicted from the premises as a tenant of the defendant because of loud and violent behavior by the defendant seriously disturbing plaintiff's right to quiet enjoyment of the premises. Defendant argues that the written lease obligated plaintiff for a year and that she has violated the lease.

The law is settled that an interference with a right of a tenant to quiet enjoyment of the premises is a breach of a lease by a landlord. The District Court made findings of fact based upon the evidence. The appeal is on questions of law only. The court accepts the findings of fact made by the District Court.

The entry will be:

Decision of the Small Claims Court is AFFIRMED;
the matter REMANDED to the District Court.

Date: March 18, 2005



Donald H. Marden
Justice, Superior Court

Action Appeal from District Court
small claims

J. MARDEN

Diane Allen

vs.

Stephen H. Sacre

Plaintiff's Attorney

Diane Allen Pro Se
~~95 W Elm Street #1~~
~~Yarmouth, Maine 04096~~

7 Turner St. #1
Portland Maine 04101

Defendant's Attorney

Stephen H. Sacre Pro Se
54 Maple Street, #1
Gardiner, Maine 04345

Date of
Entry

9/21/04	Appeal from District court with all papers, filed. (9/17/04)
9/21/04	Notice of briefing schedule mailed to parties.
10/26/04	Respondent's Brief, filed. s/Sacre, Pro Se
11/5/04	Letter from Dianna Allen regarding procedures followed in this case and Request for Dismissal, filed.
	Notice of setting for <u>3/9/05</u>
	sent to attorneys of record.
3/9/05	Oral arguments held with the Hon. Justice Donald Marden, presiding. Diane Allen, Pro Se plaintiff and Stephen Sacre, Pro Se defendant. Court to issue written order. Tape #680 Index 1098-1555
3/21/05	DECISION AND ORDER, Marden, J. Decision of the Small Claims is AFFIRMED; the matter is REMANDED to the District Court. Copies mailed to parties. Copies mailed to Deborah Firestone, Garbrecht Library and Goss.