

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

Angela Pritchett,	:	
	:	C.A. No. 07-09-0192AP
Plaintiff below/	:	
Appellant,	:	
	:	
v.	:	
	:	
Capital Green Apartments,	:	
	:	
Defendant below/	:	
Appellee.	:	

Submitted: February 6, 2008

Decided: February 6, 2008

Decision on appeal from the Justice of the Peace Court.

Appellant's appeal is dismissed for lack of jurisdiction.

Angela Pritchett, 173 Holly Drive, Frederica, Delaware 19946, Pro Se Appellant.

Capital Green Apartment, 479 River Road, Dover, Delaware 19901, Pro se Appellee.

Trader, J.

In this civil appeal from the Justice of the Peace Court, I hold that an essential party has not been joined in the appeal. Accordingly, the appeal is dismissed for the violation of the Mirror Image Rule.

The relevant facts are as follows: on June 21, 2007, Angela Pritchett filed a civil action in the Justice of the Peace Court 16 against Capital Green Apartments and Mary Freach. After a trial held on September 25, 2007, the Justice of the Peace entered a judgment in behalf of the plaintiff, Angela Pritchett, and against the defendants, Mary Freach and Capital Green Apartments, in the amount of \$190.00, plus costs. On September 28, 2007, Angela Pritchett filed a notice of appeal and complaint in this Court against the defendant, Capital Green Apartments. The defendant, Mary Freach, was not joined as a party to this appeal.

The jurisdiction of this Court on appeal is limited by statute to try the same action as instituted in the Justice of the Peace Court. *Dominick v. Harmony Talking Mach. Co.*, 88 A. 468, 469 (Del. Super. Ct. 1913). The Mirror Image Rule, as stated in *McDowell v. Simpson*, 1 Houst. 467, 1857 WL 1024 (Del. Super. Ct. 1857), requires exactness between the case on appeal and the case below in the names of parties, the number of parties, and the character in which the parties are sued. Any variance in name, number, or character is deemed fatal to a *de novo* appeal. *McDowell*, 1857 WL 1024, at *1. In *Panzer Mgmt. Co. v. Farrall*, 1987 WL 8223, at *2 (Del. Super. Ct. 1987), it was held that the reviewing court would lose jurisdiction over appeals from the Justice of the Peace Court, where the identity, number, or character of the parties, or nature of the cause of action are different on appeal. Any variance from the lower court proceedings strips the

court of jurisdiction to hear the appeal. *Hicks v. Taggart*, 1999 WL 462375, at *3 (Del. Super. Ct. 1999).

In the case before me, the appellant has omitted a party essential to this appeal. Mary Freach was a party defendant to the civil action filed in the court below, but she has not been joined in this appeal by the appellant. Accordingly, the failure to have the same parties on appeal violates the Mirror Image Rule. Therefore, this appeal is dismissed for lack of subject matter jurisdiction.

IT IS SO ORDERED.

Merrill C. Trader
Judge