



rate for similar rental units. A motion for reargument is the proper device for seeking reconsideration by the Trial Court of its findings of fact, conclusions of law or judgment, after a non-jury trial. *Hessler v. Farrell*, Del. Supr., 260 A.2d 701 (1969). The provision of *10 Del. C. § 1327* provides that all civil cases be tried by the Court of Common Pleas without a jury or referees. Therefore, a motion pursuant to *Civil Rule 59(e)* “motion for reargument” properly brings the matter before the Court.

However, a motion for reargument is not a device for raising a new argument, and will be denied unless the Court has overlooked a controlling precedent or legal principle or the Court has misapprehended the law or facts such as would have changed the outcome of the Court’s decision. *Beatty v. Smedley*, 2003 WL23353491, (Del. Super.).

First, plaintiff argues the trial was delayed significantly because a subpoenaed witness, an employee of defendant, failed to appear timely. By raising this argument, plaintiff suggests that this delay caused the trial to continue past the time the Court has reserved for the trial. However, he does not indicate that there was a failure to present any evidence he believed necessary for his case. The mere delay of a witness does not in and of itself create adverse impact. The party raising the issue of the delay must demonstrate how such delay affected the results of the trial. Here, there was adequate time for the plaintiff to question the witness and present relevant documents. I am unable to conclude that there was prejudice to the plaintiff which adversely impacted his case as a result of this delay. Moreover, the witness testified she was in the courthouse timely, but was misdirected by security staff.

Secondly, plaintiff argues that he was denied his right to closing argument. He argues this denial adversely prejudiced his case because he would have tied together all of the loose ends from the testimony. This argument is misplaced for two reasons. First, because he was provided opportunity for closing statements, however, he was not given as much time as he wanted. Second, because it fails to take into consideration, the Court sat through the trial hearing testimony ruling on exhibits and relevant evidence. The Court was well aware of the allegations in the complaint and the evidence plaintiff put into the record to support his allegations.

Thirdly, plaintiff argues that by failing to allow arguments, the Court misread the complaint and misinterpreted the law. He argues that this case involves the original filing of the summary possession action in the Justice of the Peace Court and not any subsequent appeals. A review of the complaint, however, reveals that plaintiff alleged retaliation by defendant by raising his rent as a result of plaintiff bringing two actions against defendant in this Court. This Court held that even though the rent was raised during the time when the cases were pending, the facts as presented by Defendant provided a justifiable and legal basis for the rental increase. Therefore, as such, the Court concluded the increase in rent was not a retaliatory act.

Fourthly, plaintiff argues that failure to allow closing arguments prevented him from advising the Court of opposing counsel's erroneous statements. Closing statements are not evidence but merely one argument of what one believes the evidence represents. There is no inherent prejudice to one's case where closing argument is limited. The Court is more than capable to distinguish between fact and

argument and, while plaintiff's comments may have been helpful, they are neither critical nor essential.

Fifth, plaintiff argues his closing argument would have shown that this action involved the initial filing for summary possession in the Justice of the Peace Court and not multiple appeals from the Justice of the Peace Courts. This argument lacks merit because the Justice of the Peace Court held there was retaliation for the summary proceeding action, therefore, this action could only involve a claim based upon rental increase. Moreover, even if it was based upon the summary possession proceeding, that claim was adjudicated and paid, which would bar any subsequent claim in this Court.

Sixth, plaintiff argues that by failure to allow closing argument it prevented him from pointing out the law which indicates that by raising the rent during the pendency of a case is retaliatory. The Court addressed this issue in its prior opinion. There, I held that while the rent was increased while the litigation was pending, it was not retaliatory because the rent was based upon a market study and the amount charged was less than the market rate.

Based upon a review of the record, the arguments of plaintiff and responses of defendant, I am satisfied there is no basis to alter the conclusions previously reached in these proceedings. Accordingly, Plaintiff's motion for reargument is DENIED.

**SO ORDERED**

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Alex J. Smalls  
Chief Judge

Gillespie-MOT May 07