

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2007*

**ADULT COMMUNITIES TOTAL SERVICES, INC.**, a Commonwealth of  
Pennsylvania, not-for-profit corporation,  
Appellant,

v.

**ESTATE OF ANNA S. ZIMMERMAN** and **FREDERICK C. ERMEL**,  
Personal Representative of the Estate of Anna S. Zimmerman,  
Appellees.

No. 4D06-4020

[July 25, 2007]

GROSS, J.

We reverse a summary final judgment entered in favor of appellees. The judgment awarded an entrance fee refund, with credits, arising after the termination of a resident contract with a continuing care facility. We agree with appellant that under the terms of the contract, a resident's entitlement to a refund depended upon the "termination" of the contract; termination did not become effective until either 30 days after receipt of notice of termination or surrender of the unit, whichever occurred later. In the light most favorable to appellant, the record shows that appellant waived the requirement of written notice, but not the "30 day" or "surrender" requirements necessary to complete a termination of the contract. Mrs. Zimmerman died nine days after her daughter gave the oral notice of termination. We do not address any issues under Chapter 651, Florida Statutes (2006), because the trial court did not rule on them.

*Reversed and remanded.*

STONE and POLEN, JJ., concur.

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Appeal from the Circuit Court for the Nineteenth Judicial Circuit,  
Indian River County; Robert A. Hawley, Judge; L.T. Case No. 04-320-CA-

03.

Guy M. Shir and Patrick Dervishi of Kahan, Shir, P.L., Boca Raton, for appellant.

Casey Walker of Murphy & Walker P.L., Vero Beach, for appellees.

***Not final until disposition of timely filed motion for rehearing***