

[J-129-2005]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

J. CARL KOHL	:	No. 89 MAP 2005
	:	
v.	:	Appeal from the Order of the Superior
	:	Court entered October 28, 2004, at No.
PNC BANK NATIONAL ASSOCIATION,	:	1552 EDA 2003, which affirmed in part;
WILLIAM C. SCHMIDT AND MARILYN F. SCHMIDT	:	reversed in part; remanded in part the
	:	Order of the Court of Common Pleas of
	:	Monroe County, Civil Division, entered
	:	April 16, 2003 at No. 6338 Civil 1998.
	:	
APPEAL OF PNC BANK NATIONAL ASSOCIATION	:	863 A.2d 23 (Pa. Super. 2004)
	:	
	:	ARGUED: December 5, 2005

CONCURRING AND DISSENTING OPINION

MR. JUSTICE SAYLOR

DECIDED: December 27, 2006

I agree with the majority that the Superior Court articulated the correct legal standard, which follows naturally from Raker v. G.C. Murphy Co., 358 Pa. 339, 58 A.2d 18 (1948), and appropriately balances the need for access to the courts with a tenant's right to undisturbed possession. See Majority Opinion, slip op. at 22. For the reasons articulated by the Superior Court, however, I would additionally conclude that Kohl did not act in bad faith. See Kohl v. PNC Bank Nat'l Assoc., 863 A.2d 23, 32-33 (Pa. Super. 2004). Accordingly, I would affirm the order of the Superior Court. I therefore respectfully dissent from the portion of the majority opinion remanding the case to the trial court for further proceedings.