



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS  
FORT WORTH**

**NO. 02-15-00162-CV**

CLAIRE DUKE

APPELLANT

V.

AMERICAN HOMES 4 RENT  
PROPERTIES EIGHT, LLC, A  
DELAWARE LIMITED LIABILITY  
COMPANY

APPELLEE

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FROM COUNTY COURT AT LAW NO. 1 OF TARRANT COUNTY  
TRIAL COURT NO. 2015-002186-1

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**MEMORANDUM OPINION<sup>1</sup>**

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Appellant Claire Duke appeals from a final judgment of possession in a forcible detainer action. Appellee American Homes 4 Rent Properties Eight, LLC, A Delaware Limited Liability Company has filed a motion to dismiss the

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<sup>1</sup>See Tex. R. App. P. 47.4.

appeal as moot. Appellee states in its motion that Duke did not supersede enforcement of the trial court's May 12, 2015 judgment; that a writ of possession was executed on or about June 23, 2015; and that Appellee is now in possession of the property at issue. The certificate of conference on Appellee's motion notes that Appellee's counsel attempted to confer by phone with Duke on two separate dates but that Duke did not return the phone calls. We held Appellee's motion to dismiss for ten days to await any response from Duke, but no response was received.<sup>2</sup>

An appeal in a forcible detainer action becomes moot when the appellant ceases to have actual possession of the property unless the appellant holds and asserts a meritorious claim of right to current, actual possession of the premises. *Marshall v. Housing Auth. of San Antonio*, 198 S.W.3d 782, 787–88 (Tex. 2006); *Brewer v. Green Lizard Holdings, L.L.C.*, No. 02-13-00119-CV, 2013 WL 5303064, at \*1 (Tex. App.—Fort Worth Sept. 19, 2013, no pet.) (mem. op.). Because we have not received any response showing that Duke holds and is asserting a meritorious claim as to current, actual possession of the premises, we grant Appellee's motion and dismiss the appeal as moot. See Tex. R. App. P. 42.3(a); *Marshall*, 198 S.W.3d at 790; *Stillwell v. AH4R I TX, LLC*, No. 02-13-

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<sup>2</sup>Additionally, neither the record nor briefs have been filed in this appeal because the appeal was previously abated for two months due to Duke's notice of bankruptcy. We reinstated this appeal on July 28, 2015.

00437-CV, 2014 WL 1668475, at \*1 (Tex. App.—Fort Worth Apr. 24, 2014, no pet.) (mem. op.).

/s/ Sue Walker  
SUE WALKER  
JUSTICE

PANEL: WALKER, MEIER, and GABRIEL, JJ.

DELIVERED: September 24, 2015