

IN THE UTAH COURT OF APPEALS

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Village Apartments,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20100641-CA
v.)	
)	F I L E D
Viktor Trukhny,)	(September 30, 2010)
)	
Defendant and Appellant.)	2010 UT App 270

Third District, Salt Lake Department, 100910391
The Honorable L.A. Dever

Attorneys: Viktor Trukhny, Salt Lake City, Appellant Pro Se
 James H. Deans, Salt Lake City, for Appellee

Before Judges Davis, Voros, and Roth.

PER CURIAM:

Viktor Trukhny appeals the June 30, 2010 Order on Unlawful Detainer Hearing. The appeal is before the court on a sua sponte motion for summary disposition because Trukhny failed to file a notice of appeal in a statutory unlawful detainer action within ten days. See Utah R. App. P. 4(a) ("When a judgment or order is entered in a statutory forcible entry or unlawful detainer action, the notice of appeal required by Rule 3 shall be filed with the clerk of the trial court within 10 days after the date of entry of the judgment or order appealed from."); see also Utah Code Ann. § 78B-6-813(1) (2008) (providing for a ten-day appeal time for a judgment in a statutory unlawful detainer action). However, based upon a review of the record, the order from which this appeal is taken was not final and appealable. Thus, we dismiss the appeal without prejudice.

The underlying case was initiated by a Complaint for Eviction (Unlawful Detainer). The June 30, 2010 Order on Unlawful Detainer Hearing ordered that possession of the property was to be delivered to Village Apartments immediately after July 30, 2010, but also ordered that all other issues were reserved for trial. The June 30, 2010 Order did not determine the amounts of statutory treble damages for unpaid rents, attorney fees, or costs. For the same reason, the Order on Restitution dated June

29, 2010, and served on Trukhny by the sheriff was not a final, appealable judgment.

A final judgment for purposes of appeal is one that resolves all claims before the court and fully and finally resolves the case. See Houston v. Intermountain Health Care, 933 P.2d 403, 406 (Utah Ct. App. 1997) ("Generally a judgment is not a final, appealable order if it does not dispose of all the claims in a case, including counterclaims."). As the record demonstrates, and counsel for Village Apartments confirms, the order entered after the hearing on immediate occupancy was not final and appealable. All remaining claims, including damages claims, remain pending in the district court. Once a court has determined that it lacks jurisdiction, it "retains only the authority to dismiss the action." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

We dismiss the appeal for lack of jurisdiction, without prejudice to a timely appeal filed after entry of a final judgment. Any appeal from the final judgment in this statutory unlawful detainer case must be filed with the district court clerk within ten days after entry of the judgment, as required by rule 4(a) of the Utah Rules of Appellate Procedure.

James Z. Davis,
Presiding Judge

J. Frederic Voros Jr., Judge

Stephen L. Roth, Judge