

IN THE UTAH COURT OF APPEALS

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Village North Apartments,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20070602-CA
v.)	
)	F I L E D
Artem Kopelev,)	(June 5, 2008)
)	
Defendant and Appellant.)	2008 UT App 218

Third District, Salt Lake Department, 070906074
The Honorable Tyrone E. Medley

Attorneys: Artem Kopelev, Salt Lake City, Appellant Pro Se
James H. Deans, Salt Lake City, for Appellee

Before Judges Thorne, Bench, and Orme.

PER CURIAM:

Artem Kopelev appeals from the district court's Judgment and Order of Restitution. We dismiss the appeal for lack of jurisdiction.

The court issued a Judgment and Order of Restitution on July 23, 2007. However, neither the judgment nor the district court's findings of fact and conclusions of law address or otherwise dispose of Kopelev's counterclaim against Village North Apartments. Accordingly, the Judgment and Order of Restitution was not a final, appealable order because Kopelev's counterclaim remained pending. See Don Houston, M.D., Inc. 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."). Nonfinal orders may be appealed pursuant to rule 5 of the Utah Rules of Appellate Procedure, see Utah R. App. P. 5, "or if the trial court expressly certifies them as final for purposes of appeal under [r]ule 54 of the Utah Rules of Civil Procedure." Don Houston, 933 P.2d at 406; see also Utah R. Civ. P. 54(b). However, no timely petition for interlocutory appeal was filed and no certification order satisfying the requirements of rule 54(b) was entered in this case. Therefore, we lack

jurisdiction over the appeal and must dismiss. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

The appeal is dismissed without prejudice to the filing of a timely appeal after a final judgment has been entered.

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Gregory K. Orme, Judge