

IN THE SUPREME COURT OF THE STATE OF DELAWARE

K. KAY SHEARIN,	§
	§
Plaintiff Below-	§ No. 586, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
PATTI LACY,	§ in and for New Castle County
	§ C.A. No. 02A-07-006
Defendant Below-	§
Appellee.	§

Submitted: February 7, 2003  
Decided: March 28, 2003

Before **WALSH, HOLLAND** and **BERGER**, Justices

**ORDER**

This 28th day of March 2003, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The plaintiff-appellant, K. Kay Shearin, filed an appeal from the Superior Court's September 20, 2002 order dismissing her complaint. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In May 2002, Shearin a complaint in the Justice of the Peace Court alleging that defendant-appellee Patti Lacy had sold her a defective glass bowl through E-Bay. The Justice of the Peace Court dismissed the complaint on jurisdictional grounds. In June 2002, Shearin filed an appeal in the Court of Common Pleas and moved to proceed in forma pauperis.

The Court of Common Pleas denied Shearin's motion and dismissed her complaint.

(3) In July 2002, Shearin filed an appeal in the Superior Court and again moved to proceed in forma pauperis. In the affidavit supporting her motion, Shearin stated that she was self-employed and earned a monthly income. On July 29, 2002, the Superior Court denied Shearin's motion on the ground that she had failed to demonstrate that she was unable to bring in sufficient monthly income to pay the filing fee of \$175.00. The Superior Court further ordered that, if the filing fee were not paid within 15 calendar days of the date of notice, Shearin's complaint would be dismissed. Subsequently, the Prothonotary's Office notified Shearin that, if the filing fee were not received by August 21, 2002, her complaint would be dismissed. Shearin did not pay the filing fee and, on September 20, 2002, the Superior Court dismissed her complaint.

(4) The decision to grant or deny a civil litigant the right to file an action without prepaying the necessary court filing fee is within the sound discretion of the Superior Court.<sup>1</sup> We have reviewed the Superior Court's order dismissing Shearin's complaint and the record in this case, including

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<sup>1</sup>SUPER. CT. CIV. R. 112; *Coleman v. State*, Del. Supr., No. 401, 1998, Walsh, J. (Dec. 8, 1998).

Shearin's affidavit, and find no error or abuse of discretion on the part of the Superior Court in denying Shearin's motion to proceed *in forma pauperis*.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice