

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
(at Lexington)

MLCFC 2007-8 FAYETTE SG)	
PROPERTY, LLC,)	
)	
Plaintiff,)	Civil Action No. 5: 12-319-DCR
)	
V.)	
)	
MEADOWWOOD APARTMENTS OF)	
LEXINGTON, LTD, et al.,)	MEMORANDUM ORDER
)	
Defendants.)	

*** **

This matter is pending for consideration of the Plaintiff MLCFC 2007-8 Fayette SG Property, LLC’s motion for entry of a default judgment against Defendant PW Real Estate Investments Inc. pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure. [Record No. 52]¹ In support of this motion, the plaintiff states that Defendant PW Real Estate Investments Inc. is in default because, following service, the defendant failed to timely file an answer or other responsive pleading.

Under Rule 55(b) of the Federal Rules of Civil Procedure, a default judgment may be entered by the Clerk or the Court. However, prior to issuance of a default judgment, the Clerk must enter a default against the defendant pursuant to Rule 55(a) of the Federal Rules of Civil

¹ In the same pleading, the plaintiff has also moved for summary judgment against Defendants Meadowood Apartments of Lexington, II, LTD, Cedarwood Apartments of Lexington, II, LTD, and Longwood Apartments of Lexington, LTD. [Record No. 52] The Court does not address the summary judgment motion in this Memorandum Order.

Procedure. *Johnson v. Dayton Electric Mfg. Co.*, 140 F.3d 781, 783 (8th Cir. 1998); *see also Epicentre Strategic Corp. v. Cleveland Const., Inc.*, 2007 WL 715297 (E.D. Mich. 2007); *Buckeye Cablevision, Inc. v. Sledge*, 2004 WL 952875 (N.D. Ohio 2004); *DeTore v. Local #245 of the Jersey City Public Employees Union*, 511 F. Supp. 171, 176 (D.N.J. 1981) (“However, no default judgment may be entered under either Fed.R.Civ.P. 55(b)(1) or (b)(2) unless a default has previously been entered by the clerk under 55(a). Thus, the entry of default is an essential predicate to any default judgment.”).

An entry of default has not been entered by the Clerk of the Court in this matter. Accordingly, for the foregoing reasons, the plaintiff’s motion for default judgment [Record No. 52] is **DENIED**.

This 5th day of September, 2013.



Signed By:

Danny C. Reeves DCR

United States District Judge