

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:17-CV-265-FL

LHNH NORTHWOODS)
TOWNHOMES NC, LLC, d/b/a)
Northwoods Townhomes,)
)
Plaintiff,)
)
v.)
)
BABAJIDE AJIFOWOBAJE, and)
ELIZABETH AJIFOWOBAJE)
)
Defendants.)

ORDER

This matter comes before the court on the memorandum and recommendation (“M&R”) of Magistrate Judge Robert B. Jones, Jr., pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), wherein it is recommended that the case be remanded to state court. No objections to the M&R have been filed. In this posture, the issues raised are ripe for ruling. For the reasons that follow, the court adopts the recommendation of the magistrate judge and remands the case to state court.

DISCUSSION

The district court reviews *de novo* those portions of a magistrate judge’s M&R to which specific objections are filed. 28 U.S.C. § 636(b). Absent a specific and timely filed objection, the court reviews only for “clear error,” and need not give any explanation for adopting the M&R. Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983). Upon careful review of the record, “the court may accept, reject, or

modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Plaintiff initiated this action for summary ejection February 24, 2017, in the General Court of Justice, District Court Division – Small Claims, for Wake County North Carolina. (DE 1-3). Defendants, proceeding pro se, removed the action to this court June 2, 2017, and moved for leave to proceed in forma pauperis. (DE 1).

In the M&R, it is recommended that the case be remanded to state court where all parties are domiciled in North Carolina, see 28 U.S.C. § 1332, and where the affirmative defenses to eviction that defendants assert raise no federal question. See In re Blackwater Sec. Consulting, LLC, 460 F.3d 576, 584 (4th Cir. 2006). Where plaintiff does not object to these grounds for dismissal set forth in the M&R, the court reviews the magistrate judge’s determinations for clear error. Diamond, 416 F.3d at 315. Finding no such error, the case must be remanded to state court.

CONCLUSION

Upon consideration and review of the M&R and the record generally, the court ADOPTS the findings and recommendations of the magistrate judge in full. This case is REMANDED to the General Court of Justice, District Court Division – Small Claims, for Wake County, North Carolina, pursuant to 28 U.S.C. § 1447(c). The clerk is DIRECTED to close this case.

SO ORDERED, this the 8th day of November, 2017.


LOUISE W. FLANAGAN
United States District Judge