

STATE OF MAINE
CUMBERLAND, SS.

CLERK'S OFFICE
2008 FEB 29 P 2:20
SUPERIOR COURT
CIVIL ACTION
Docket No. AP-07-035
T. CO. 2008-001

RAHIMA HALLALI,

Plaintiff / Appellant

v.

DECISION ON APPEAL

LYNNE MULKERN,

Defendant / Appellee

I. BEFORE THE COURT

The appellant Rahima Hellali (Helalli) appeals from a District Court (Portland, O'Neil, J.) small claims judgment in favor of her former landlord Lynne Mulkern (Mulkern). Hellali is attempting to recover a \$900.00 security deposit that she had paid to Mulkern.

II. DISCUSSION

Because Hellali was the plaintiff in the proceeding below, this court's review is limited to questions of law only, based on the record on appeal. *See* M.R.S.C.P. 11(d)(1); M.R.Civ.P. 76D. M.R.Civ.P. 76F specifies the proper record to be filed in an appeal from the District Court, which includes a transcript of the proceedings or a settled statement of what occurred if a recording was timely requested under M.R.Civ.P. 76H(a), but none was made "for reasons beyond the control of any party." M.R.Civ.P. 76F(c).

The record before this court includes a statement from Hellali, a brief from Mulkern's attorney, a docket record, and the exhibits from the hearing below, it does not contain a transcript of the proceedings or a statement of the evidence in lieu of a transcript.

Hellali claims in her statement that the decision of the lower court was based on “false documents” that were submitted by Mulkern. However, it does not appear that either party requested a recording of the hearing before the District Court pursuant to M.R. Civ. P. 76H(a) and therefore no recording was made.

Hellali does not contend that the absence of a record of the proceedings in the District Court is for a reason “beyond the control of any party” as that term is used in M.R. Civ. P. 76F(c), and there is no settled statement of the proceedings that was filed with the appeal. It was Hellali’s burden to ensure that a proper record was filed in the Superior Court. M.R. Civ. P. 76F(a). Without a record, this court is unable to review the correctness of the District Court’s decision. *See Manzo v. Reynolds*, 477 A.2d 732, 734 (Me. 1984) (stating that the Superior Court must deny an appeal if no record is filed to allow for fair consideration of the issues on appeal). Furthermore, the statement that was filed by Hellali does not raise any question of law. Instead, it alleges only that the evidence submitted by Mulkern below was false and that Hellali has evidence of what really happened. Hellali, however, had ample opportunity at the small claims trial to contest the evidence offered by Mulkern and to submit any evidence to the court that may have supported her position.


III. DECISION AND JUDGMENT

The clerk will make the following entry as the Decision and Judgment of the court:

- The judgment of the District court (Small Claims) is affirmed.

SO ORDERED.

Dated: February 29, 2008


Thomas E. Delahanty II
Justice, Superior Court

Date Filed 06-12-07 CUMBERLAND Docket No. AP-07-35
County

Action DISTRICT COURT APPEAL

RAHIMA HELLALI

LYNNE MULKERN

vs.

Plaintiff's Attorney
RAHIMA HELLALI PRO SE
11 SOUTH GRAFTON STREET
PORTLAND ME 04103
(207)615-6114

Defendant's Attorney
DAVID CHAMBERLAIN ESQ
PO BOX 2412
SOUTH PORTLAND ME 04116-2412
(207)767-4824

Date of