

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

ERICA STREET

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

PROPERTY A MANAGEMENT

APPEAL OF: GARY FORD

No. 1299 EDA 2012

Appeal from the Judgment Entered May 7, 2012
In the Court of Common Pleas of Delaware County
Civil Division at No.: 11-52353

BEFORE: MUSMANNO, J., WECHT, J., and PLATT, J.*

MEMORANDUM BY PLATT, J.

Filed: January 11, 2013

Appellant, Gary Ford, the registered owner of Property A Management¹ under the Fictitious Names Act, 54 Pa.C.S.A. §§ 301-332, appeals *pro se* from the judgment against Property A Management and in favor of Appellee, Erica Street. We affirm.

Appellee, a tenant of Appellant, sought damages in the Magisterial District Court for losses she sustained as a result of a bed bug infestation in her residence. Appellee prevailed, and Appellant filed an appeal to the Court

* Retired Senior Judge assigned to the Superior Court.

¹ Pennsylvania Department of State entity number 619206.

of Common Pleas of Delaware County. An arbitration hearing date was set for March 20, 2011, but Appellant failed to appear. By order of March 21, 2012, the trial court found that Appellant had been notified as required by Pennsylvania Rule of Civil Procedure 1303² and awarded damages to Appellee in the amount of \$6,000.00. (**See** Order, 3/21/12). Appellant filed a *pro se* "Motion for Post-Trial Relief, *Lex Nemini Facit Injuriam*" on March 26, 2012, which the trial court denied on April 23, 2012. Appellant filed a

² Rule 1303 provides, in relevant part:

Rule 1303. Hearing. Notice

(a)(1) The procedure for fixing the date, time and place of hearing before a board of arbitrators shall be prescribed by local rule, provided that not less than thirty days' notice in writing shall be given to the parties or their attorneys of record.

(2) The local rule may provide that the written notice required by subdivision (a)(1) include the following statement:

"This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial *de novo* on appeal from a decision entered by a judge."

Pa.R.C.P. 1303(a)(1)-(2); **see also** Delaware County Local Rule 1303(a)(1)(iii) (adopting Rule 1303 and providing that notice shall include the above-quoted statement). The local rule further provides that the trial court may "hear the matter and make a decision, if the defendant is not ready or fails to appear." Delaware County Local Rule 1303(b)(2)(iii).

pro se appeal to this Court on May 2, 2012, and a *praecipe* to enter judgment on May 7, 2012.³

Appellant raises three questions for our review, challenging the trial court's entry of judgment in favor of Appellee and denial of post-trial relief to Appellant, and alleging bias by the trial court. (**See** Appellant's Brief, at 5-6).

Preliminarily, we note that Appellant's *pro se* brief is substantially defective. His argument and citations to case law are either indecipherable, irrelevant, or lack meaningful analysis. (**See** Appellant's Brief, at 10-22).

We note that:

[A]ppellate briefs and reproduced records must materially conform to the requirements of the Pennsylvania Rules of Appellate Procedure. Pa.R.A.P. 2101. This Court may quash or dismiss an appeal if the appellant fails to conform to the requirements set forth in the Pennsylvania Rules of Appellate Procedure. *Id.*; ***Commonwealth v. Lyons***, . . . 833 A.2d 245 (Pa.[.]Super. 2003)[, *appeal denied*, 879 A.2d 782 (Pa. 2005)]. Although this Court is willing to liberally construe materials filed by a *pro se* litigant, *pro se* status confers no special benefit upon the appellant. [***Lyons, supra***] at 252. To the contrary, any person choosing to represent himself in a legal proceeding must, to a reasonable extent, assume that his lack of expertise and legal training will be his undoing.

In re Ullman, 995 A.2d 1207, 1211-12 (Pa. Super. 2010), *appeal denied*, 20 A.3d 489 (Pa. 2011). Accordingly, Appellant's arguments are waived.

³ The trial court did not order Appellant to file a statement of errors, but filed an opinion on June 25, 2012. **See** Pa.R.A.P. 1925(a), (b). Appellee did not file a brief in this matter.

See Pa.R.A.P. 2101, 2119(a)-(c). Nonetheless, in the interests of justice, we will address the trial court's denial of Appellant's motion for a new trial.

"[O]ur standard of review when faced with an appeal from the trial court's denial of a motion for a new trial is whether the trial court clearly and palpably committed an error of law that controlled the outcome of the case or constituted an abuse of discretion." **Schuenemann v. Dreemz, LLC**, 34 A.3d 94, 98-99 (Pa. Super. 2011) (citation omitted); **see also Morrison v. Dep't of Pub. Welfare, Office of Mental Health**, 646 A.2d 565, 570-71 (Pa. 1994).

Judicial discretion requires action in conformity with law on facts and circumstances before the trial court after hearing and consideration. Consequently, the court abuses its discretion if, in resolving the issue for decision, it misapplies the law or exercises its discretion in a manner lacking reason. Similarly, the trial court abuses its discretion if it does not follow legal procedure.

Sabella v. Milides, 992 A.2d 180, 185 (Pa. Super. 2010), *appeal denied sub nom. Sabella v. Estate of Milides*, 9 A.3d 631 (Pa. 2010) (citations and quotation marks omitted).

Pennsylvania Rule of Civil Procedure 218(c) provides: "A party who fails to appear for trial shall be deemed to be not ready without satisfactory excuse." Pa.R.C.P. 218(c); **see also** Delaware County Local Rule 1303(b)(5) ("Should an adverse judgment be entered under this Rule against a defendant who failed to appear, that defendant may file a motion for post-trial relief which may include a request for a new trial on the ground of a satisfactory excuse for the defendant's failure to appear.").

A "satisfactory excuse" must be an excuse that would constitute a valid ground for a continuance. Examples of such valid grounds include agreement of counsel; illness of counsel, a party, or a material witness; inability to maintain the testimony of an absent witness by means of discovery; or such other grounds as may be allowed by the court.

Breza v. Don Farr Moving & Storage Co., 828 A.2d 1131, 1134-35 (Pa. Super. 2003) (citations and some quotation marks omitted).

Here, Appellant's excuse for his failure to appear at arbitration was that Appellee had failed to file a complaint. (***See*** Appellant's Brief, at 7; Motion for Post-Trial Relief, *Lex Nemini Facit Injuriam*, 3/26/12, at unnumbered page 2 ¶ 9-12). However, Appellee's purported procedural missteps do not give Appellant "a valid ground for a continuance," nor is Appellant entitled to determine whether Appellee's errors were fatal to her case. ***Breza, supra*** at 1134-35; (***see also*** Trial Ct. Op., 6/25/12, at unnumbered page 2 (rejecting Appellant's claim because it "concentrates on [Appellee]'s failure to follow the procedures as set forth in the Rules of Civil Procedure and asserts that as the reason it failed to appear for the arbitration hearing.")). Thus, Appellant's given reason does not excuse him from his responsibility to appear.

Accordingly, the trial court did not abuse its discretion in denying Appellant's motion where Appellant's excuse for failing to appear was unsatisfactory. ***See*** Pa.R.C.P. 218(c); Delaware County Local Rule 1303(b)(2)(iii), (5); ***Sabella, supra*** at 185; ***Breza, supra*** at 1134-35. Appellant's issues are without merit.

Judgment affirmed.