

KNO CV246109816

Micah Gentile

FILED

Judicial District of New London

v.

JUN 06 2024

At Norwich

Michael Grillo

June 6, 2024

SUPERIOR COURT
NEW LONDON JUDICIAL DISTRICT
AT NORWICH

MEMORANDUM OF DECISION

This case involves a summary process case that had gone to a stipulated judgment on April 25, 2024. The stipulation called for the tenant to make two payments, one on May 3, 2024 in the amount of \$7,800 and another payment on May 10, 2024 in the amount of \$2,600, a total of \$10,400.

On May 16, the plaintiff filed an affidavit of non-compliance indicating that neither payment had been made. The defendant filed an objection indicating that the first payment was mailed to the plaintiff in a timely fashion, but the unopened envelope was returned to the defendant by the post office. The attorney for the defendant alleges that he immediately contacted the attorney, Attorney Reckmeyer, to notify him of this development. The defendant's counsel, Attorney Rothstein, indicated in his Objection to the Motion For Noncompliance, that then he mailed the payment to the landlord's counsel.

While there may be some slight controversy by and between counsel, the bottom line is that prior to the court appearance on today's date, Attorney Reckmeyer had received a bank check for the entire payment of \$10,400. Nonetheless, the plaintiff seeks immediate possession of the property as the first payment was not received by May 3, 2024.

There exists in Connecticut law an "ancient equitable doctrine against forfeitures to summary process actions for nonpayment of rent and have occasionally, on the particular facts of each case, granted relief to the tenant." Quoted from *Dianne Fellows v Marjorie Martin*, 217 Conn. 57 (1991) 584 A.2d.458. Here the delay of a payment for a short matter of days which was then paid in full, should not possibly offset the great harm of forfeiture of the remaining time on the lease.

The affidavit of non-compliance is denied.

Foley, JTR #789

Memorandum of decision sent on 6/6/24 to:

Attorney Reckmeyer
Attorney Rana
Attorney Rothstein
reporter of judicial decisions

Alex Aguiar Jr