

STATE OF NORTH DAKOTA

IN THE SUPREME COURT OF

COUNTY OF WILLIAMS

THE STATE OF NORTH DAKOTA

RAD Development-Main Street,

Supreme Court No. 20170447

LLC, Plaintiff, *Appellee*

Case No. 53-2017-CV-01161

vs.

Elvis Y. Leunguen-Koundjo

And All Other Occupants,

Defendants. *Appellant*

APPEAL FROM EVICTION JUDGEMENT IN THE DISTRICT COURT

NORTHWEST JUDICIAL DISTRICT

APPELLANT'S BRIEF

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Statement of the Issues

1. Issue One: Did RAD Development have the right to change locks on my apartment and lock me out because they received permission from their lawyer?
(See transcript page 18, lines 17, 18)
2. Issue Two: Did RAD Development have the right to expel me because I called the police multiple times to my apartment?

Statements of the Case

3. On October 18, 2017, the District Court held an eviction hearing before the Honorable Judge Josh B. Rustad during which he found grounds for the eviction to exist. See Transcript page 32. Despite my testimony I was found at fault and the court ordered that I pay attorney fees and other fees that RAD Development assumed that I was liable for.

Statement of the Facts

4. The court decided to pursue the eviction process although counsel for RAD Development had founded their ground for eviction mainly on allegation of damages. See Transcript page 4, lines 5, 6. RAD Development entered my apartment without any notice See transcript page 17, lines 12-14. They did so entirely based on their lawyer advice. See transcript page 18, lines 17, 18

Argument

Issue One: Did RAD Development have the right to change locks on my apartment and lock me out because they received permission from their lawyer? (See transcript page 18, lines 17, 18)

The answer is NO

The law is clear about when a landlord may enter an apartment, in fact a landlord shall receive the consent of the tenant prior to enter the tenant's apartment the North Dakota Century Code 47-16-07.3. reminds us that a landlord shall not abuse the right of access as it was done in my apartment by RAD Development. The three days' notice to vacate the premises is not a passport to unlawfully entering tenants' apartments, it is the first to a legal action which will end up in front of the judge; In this case the landlord changed the locks on my apartment and forced me to sleep in my car exposed to cold temperatures. As stated in McLain v. Nurnberg 16 N.D, 144, 147, 112 N.W.243, 244 (1907), three-day notice to quit does not conclude the eviction action.

5. Issue Two: Did RAD Development have the right to expel me because I called the police multiple times to my apartment?

The answer is NO

6. Neither the North Dakota Century Code nor my Lease Agreement says that calling the Police to your apartment is ground for eviction. In fact, I called the police multiple times to my apartment because the tenant that lived on apartment

301 was making loud noises and harassed me continuously, as a result I went to landlord and told her what happened, she mentioned to me that that tenant was mentally unstable and that she would fix the issue, unfortunately she never did. As a result, I was still harassed, I was unable to sleep in the apartment that I paid frequently, I decided to bring the case to the District Court, Criminal No. 53-2017-CV-00467, although the defendant admitted making noises, Judge Johnson dismissed the case. As stated in N.D.C.C. 47-16-08. Landlords shall provide quiet possession of leased property to tenants.

Conclusion

7. Since RAD Development unlawfully locked me out of my apartment without following the legal procedure, in addition the court granted them eviction entirely based on the facts that I called the police to my apartment See transcript page 15, line 6-11; The court erred in following North Dakota Century Code § 47-16-07.3. Also, RAD Development failed to provide myself a quiet enjoyment of premises as stated in North Dakota Century Code § 47-16-08.
8. To summarize, given the facts that RAD Development failed to follow rules governing eviction in North Dakota, the court erred on its judgment; I am seeking that the court judgment be dismissed, and my direct deposit of \$ 500 be refunded to me.

9. Respectfully,

Submitted the 4th day of April, 2018

Elvis Y. Leunguen-Koundjo

811 S Colorado St

Butte, MT 59701

Telephone: 701-580-8138

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APPELLANT'S CERTIFICATE OF SERVICE

I would like the court to know that I sent both my Brief and Appendix to RAD Development electronically at info@nehrlinglaw.com on April 4, 2018 and April 6, 2018.

Respectfully,


ELVIS LEUNGUEN-KOUNDJO

Submitted the 10th day of April, 2018

811 S Colorado St

Butte, MT 59701

Telephone: 701-580-8138