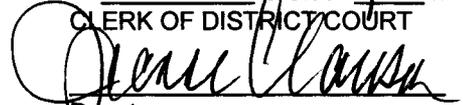


FILED 10/14/2020

AT 5:00 0 Clock P. M

CLERK OF DISTRICT COURT


Deputy

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI**

ERIC ROUSE,)
Plaintiff,)
vs.)
CAYLE STEVENS,)
Defendant.)

Case No. **CV28-20-4804**

**MEMORANDUM DECISION ON
DEFAULT JUDGMENT**

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND.

On September 6, 2020, this Court entered default against defendant Cayle Stevens. On September 3, 2020, in addition to the Application for Entry of Default, counsel for plaintiff filed a proposed judgment. The Court did not sign such because there was no proof of the debt submitted at that time by counsel for plaintiff. On October 7, 2020, counsel for plaintiff filed an Affidavit of Vonie Gecian. The Court has reviewed that affidavit. The Court has concerns about whether the proposed judgment should be signed given the statute of frauds. The Court is now convinced that entry of a judgment is appropriate, and files this decision supporting such decision.

Plaintiff Eric Rouse (Rouse) is seeking Default Judgment on back rent from Cayle Stevens (Stevens) for a month-to-month lease with no written contract between the parties. The issue before this Court is whether such a lease violates the Statue of Frauds and whether a Judgement can be entered against Stevens.

II. ANALYSIS

Rouse's Complaint states that:

On or about August of 2015, Defendant Cayle Stevens entered into a

month-to-month lease with Eric Rouse, owner, for the rental of residential property located at 6857 W. Heritage St. #2, Rathdrum, Idaho 83858. Defendant Cayle Stevens moved out of the residential property on October 2, 2019. Defendant owes Eric Rouse, owner, under the terms of said lease, the sum of NINE THOUSAND TWO HUNDRED FORTY—FIVE DOLLARS AND ZERO CENTS (\$9,245.00) plus accrued interest through July 31, 2020 in the amount of NINE HUNDRED TWENTY—ONE DOLLARS AND TWELVE CENTS (\$921.12), for a total sum due as of July 31, 2020 of TEN THOUSAND ONE HUNDRED SIXTY—SIX DOLLARS AND TWELVE CENTS (\$10,166. 12).

Compl. 2. Vonie Grecian was formerly married to Stevens. Aff. Of Vonie Gracian 1, ¶¶2.

Vonie Gracian's states in her Affidavit that:

4. We moved into the duplex in August 2015;
5. We lived in the duplex as tenants under a verbal rental agreement between my then husband, Cayle, and the Plaintiff herein, Eric Rouse;
6. Cayle Stevens is the godson of Eric Rouse and the landlord tenant arrangements/agreement were/was based in good faith 'and upon their personal relationship;

Id. at 2, ¶¶4-6. Idaho Code § 9-505 states:

In the following cases the agreement is invalid, unless the same or some note or memorandum thereof, be in writing and subscribed by the party charged, or by his agent. Evidence, therefore, of the agreement cannot be received without the writing or secondary evidence of its contents:

1. An agreement that by its terms is not to be performed within a year from the making thereof.
4. An agreement for the leasing, for a longer period than one (1) year, or for the sale, of real property, or of an interest therein, and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent be in writing, subscribed by the party sought to be charged.

Idaho Code § 9-503 states:

No estate or interest in real property, other than for leases for a term not exceeding one (1) year, nor any trust or power over or concerning it, or in any manner relating thereto, can be created, granted, assigned, surrendered, or declared, otherwise than by operation of law, or a conveyance or other instrument in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by his lawful agent thereunto authorized by writing.

Based on the Idaho Statute alone it would appear that that the Statute of Frauds does not come into play in this case. Rouse claims in his Complaint that the oral

agreement was month-to-month. Complaint 2, ¶¶III. Based on Rouse's claim, this is not a lease agreement for a term exceeding one year, and therefore a written contract is not required under the Statute of Frauds. What caused this Court to pause, is the fact that while according to Rouse's Complaint, the lease was based on a month-to-month oral agreement, the period in which Stevens leased the property ultimately lasted for over one year, and indeed lasted over four years.

Idaho Case law has not dealt squarely with the question of whether a month-to-month lease under a period of time greater than a year would fall under the prevue of the Statute of Frauds. Idaho courts have upheld the general notion that “[p]ursuant to I.C. § 9–503 (the statute of frauds), any lease for a term exceeding one year must be in writing and ‘subscribed by the party creating, granting, assigning, surrendering or declaring the same....’” *George W. Watkins Family v. Messenger*, 115 Idaho 386, 388–89, 766 P.2d 1267, 1269–70 (Ct. App. 1988). For the reasons described above, and specifically based on the nature of the month-to-month lease described in the Complaint, this Court finds the Statute of Frauds does not apply in this case.

Stevens has not answered the Complaint. Default was issued by this Court on September 8, 2020, and Rouse has sought Default Judgment. Rouse has provided an invoice prepared on July, 27, 2020, listing the past rent due with all late fees waived (it is odd that he included the late fees in his list only to waive them, and he never mentioned an agreement for late fees in his description of the oral lease agreement). Mem. Of Costs and Aff. In Supp. of Default.

While Rouse has not applied specifically for a Sum Certain Judgment, it is worth noting that this document does not appear to reach the requirements for a Sum Certain Judgment under IRCP 55(b)(1). Most pertinent, a Sum Certain Judgment requires an “original instrument evidencing the claim unless otherwise permitted by the court.” IRCP

55(b)(1). This case does not involve a written contract, so no original instrument evidencing the claim likely exists.

Rouse has likely met his burden for a Default Judgment under IRCP 55(b)(2). Since this rule encompasses all “other cases” where Sum Certain Judgment cannot be provided, this rule provides the court with procedures it may deem necessary to enter a Default Judgment. Idaho Rules of Civil Procedure Rule 55(B)(2) states:

The court may conduct hearings or make referrals when, to enter or effectuate judgment, it needs to:

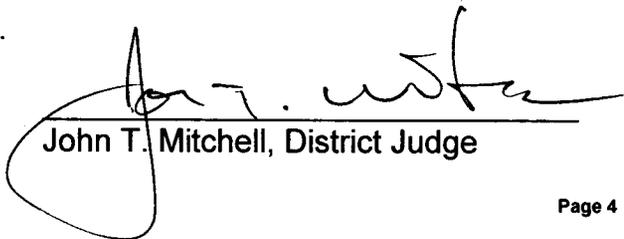
- (A) conduct an accounting;
- (B) determine the amount of damages;
- (C) establish the truth of any allegation by evidence; or
- (D) investigate any other matter.

IRCP 55(B)(2). Rouse has provided this Court with an accounting, determined his damages, and sworn to the truth of the allegations in his Memorandum of Costs and Affidavit in Support of Default. Additionally, Vonie Gracian’s Affidavit has provided supporting evidence as to the nature and elements of the oral lease agreement between Rouse and Stevens. For these reasons, this Court will sign a Default Judgment in this case. There do remain some lingering questions as to the specifics of such a personal and lengthy oral rental agreement, but without hearing from the defendant Stevens in this case, such an inquiry appears to go beyond the scope of what is required for entry of default judgment.

III. CONCLUSION

For the reasons described above, this Court finds the oral lease agreement at issue in this case is not barred by the Statute of Frauds and the entry of Default Judgment in this case is proper.

Entered this 14th day of October, 2020.


John T. Mitchell, District Judge

^{to}
Certificate of Service

I certify that on the 16 day of October, 2020, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail or facsimile to each of the following:

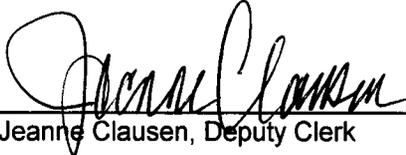
Lawyer

email

Gregory R. Rauch

nppd@mrlegal.com ✓

Cayle Stevens
5671 Main Street
Spirit Lake Idaho 83869 ✓



Jeanne Clausen, Deputy Clerk