



Robin Mobile Home Parks, Inc. v. Willett

2024-Ohio-5651 (2024) | Cited 0 times | Ohio Court of Appeals | December 2, 2024

IN THE COURT OF APPEALS OF OHIO ELEVENTH APPELLATE DISTRICT PORTAGE COUNTY

ROBIN MOBILE HOME PARKS, INC.,

Plaintiff-Appellee,

- vs -

MICHAEL WILLETT,

Defendant-Appellant. CASE NO. 2024-P-0063

Civil Appeal from the Municipal Court, Ravenna Division

Trial Court No. 2024 CVG 01176 R

MEMORANDUM OPINION

Decided: December 2, 2024 Judgment: Appeal dismissed

Michael A. Noble, Lentz, Noble & Heavner, LLC, 228 West Main Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Michael Willett, pro se, 3218 State Route 82, No. 151, Mantua, OH 44255 (Defendant- Appellant).

JOHN J. EKLUND, J.

{¶1} On October 11, 2024, appellant, Michael Willett, filed a pro se appeal from a September 4, 2024 entry. Appellee, Robin Mobile Home Parks, Inc., through counsel, filed a motion to dismiss the appeal as untimely. Appellant filed no opposition.

{¶2} App.R. 3(A) expressly states that the only jurisdictional requirement for filing



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a valid appeal is to file it within the time allowed by App.R. 4. The Supreme Court has held that the failure to comply with the time requirements of App.R. 4(A) is a jurisdictional defect, which is fatal to an appeal. In re H.F., 2008-Ohio-6810, ¶ 17, citing State ex rel.

Pendell v. Adams Cty. Bd. of Elections, 40 Ohio St.3d 58, 60 (1988).

{¶3} from an order that is final upon its entry shall file the notice of appeal required by App.R.

See App.R. 4(A)(1). Civ.R. 58(B) directs the clerk of

courts to serve the parties with notice of the entry within three days of entering the judgment upon the journal. If Civ.R. 58(B) service does not occur within three days, the time to appeal does not begin to run until service is made and noted on the appearance docket. Coles v. Lawyers Title Ins. Corp., 2005-Ohio-5260.

{¶4} In this case, the trial court issued its entry on September 4, 2024. The clerk of courts noted on the appearance docket that notice of the entry under Civ.R. 58(B) was issued to the parties on September 5, 2024. Therefore, pursuant Civ.R. 58(B), the time to appeal began to run from September 4, 2024. The deadline for appellant to file his notice of appeal was October 4, 2024, which was not a holiday or a weekend. Thus, October 11, 2024 notice of appeal was untimely filed by 7 days.

{¶5} This court is not empowered to extend the time deadline in civil cases.

Pendell at 60; see also App.R. 14(B).

{¶6} This appeal is dismissed pursuant to App.R. 4(A)(1).

EUGENE A. LUCCI, P.J.,

ROBERT J. PATTON, J.,



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concur.

