

AMADOR SUPERIOR COURT LAW AND MOTION TENTATIVE RULINGS

Friday, July 30, 2021

TO REQUEST A HEARING ON ANY MATTER ON THIS CALENDAR, YOU MUST CALL THE COURT AT (209) 257-2692 BY 4:00 P.M. ON THE DAY PRECEDING THE HEARING. NOTICE OF THE INTENTION TO APPEAR MUST ALSO BE GIVEN TO ALL OTHER PARTIES.

IF THE CLERK IS NOT NOTIFIED OF A PARTY'S INTENTION TO APPEAR, THERE WILL BE NO HEARING AND THE TENTATIVE RULING WILL BECOME THE ORDER OF THE COURT. NO FURTHER NOTICE OF THE COURT'S RULING WILL BE PROVIDED.

2021 CVCLSLD 12191 XXXXXX

VS.

XXXXX

MOTION FOR SUMMARY JUDGMENT

TENTATIVE RULING:

Plaintiff's Motion for Summary Judgment is GRANTED.

Request for Judicial Notice:

Plaintiff requests the court take judicial notice of the grant deed to 13 Vista Court, Sutter Creek, California pursuant to Evidence Code § 452 and 453.

Plaintiff's request for judicial notice is GRANTED.

Defendants request the court take judicial notice of Plaintiff's Notice, attached to her Complaint for Unlawful Detainer, as well as the amended proof of service for the instant hearing pursuant to Evidence Code § 452(d).

Defendants' request for judicial notice is GRANTED.

Summary Judgment

A plaintiff in an action for unlawful detainer may move for summary judgment; this is wholly consistent with the basic statutory purposes of unlawful detainer – a speedy determination of the right to possession. (Knowles v. Robinson (1963) 60 Cal.2d 620, 625; Gonzales v. Jim Properties (1974) 37 Cal.App.3d 1029.) (Summary judgment process applicable in context of unlawful detainer proceedings.)

CCP § 1170.7 governs motions for summary judgment in unlawful detainer actions. That section states in pertinent part that "[s]ummary judgment shall be granted or denied on the same basis as a motion under Section 437c." Summary judgment may be granted only where all the supporting and opposition papers show there is no triable issue as to any material fact and the moving party is entitled to judgment "as a matter of law." (CCP § 437c(c).)

Burden of Proof:

Plaintiff claims that Defendants no longer have the right to occupy the property because the tenancy has ended. To establish this claim, Plaintiff must prove all of the following: 1. that Plaintiff owns the property; 2. that Plaintiff rented the property to Defendants under a month-to-month rental agreement; 3. that Plaintiff gave the Defendants proper thirty (30) days' written notice that the tenancy was ending; and 4. That Defendant is still occupying the property. (CACI 4036.)

A plaintiff's burden is to prove each element of the cause of action, not to negate all possible defenses. (Aguilar v. Atlantic Richfield Company (2001) 25 Cal.4th 826, 849.) A plaintiff has met the burden of showing there is no defense to a cause of action if that party has proved each element of the cause of action entitling the party to judgment on that cause of action. (CCP §437c(p)(1).)

Plaintiff offers the following in support of her motion:

1. Grant deed to property located at 13 Vista Court, Sutter Creek, California. (Decl. Cambra Exh. 1.)
2. Month-to-month rental agreement. (Compl. Exh. 1.)
3. Notice of Termination of Tenancy. (Compl. Exh. 2.)
4. Defendants are still in possession of the property. (Decl. Cambra ¶ 5.)

Plaintiff has met her burden. The burden shifts to the Defendants to show a triable issue of one or more material facts exists as to that cause of action or a defense thereto. (CCP § 437c(p)(1).)

Defendant's verified Answer was filed June 24, 2021 and Opposition was filed July 22, 2021 raise the affirmative defenses that 1) the tenancy at issues is subject to the Tenant Protection Act of 2019, and 2) that the 30-day notice served upon them is legally invalid for being misleading in its title and for failure to indicate that Plaintiff was retaking possession as an owner-occupant.

The Tenant Protection Act of 2019 ("TPA") bans otherwise "no-cause" evictions and requires "just cause" to evict. Under the TPA, one of the permissible "no-fault just cause" basis of evictions is that the owner or family intention to reoccupy the property. However, the tenant must agree in writing and the landlord must pay tenant relocation fees set at 1 month's rent. (Civ. Code § 1946.2(b)(2), Civ. Code § 1946.2(d).)

The court finds that the TPA and its protections do not apply in this case. The just cause requirement in the TPA applies only to

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tenants who have resided for a minimum of twelve (12) months. (CCP § 1946.2(a).) In the instant case, Defendants were served with notice approximately five (5) months into their tenancy. No relocation fees are applicable, because the TPA does not apply. Defendant also argues that under CCP § 1179.03.5 (effective June 28, 2021), a cause is required to terminate a tenancy. Plaintiff argues that the following clause in the month-to-month rental agreement put Defendants on notice that no-fault just cause was Plaintiff's contractual and statutory right to reoccupy the home she owns. "Landlord hereby notifies tenant that the Property is exempt from the rent cap provisions specified in Civil Code Section 1947.12 and the just cause eviction provisions specified in Civil Code Section 1947.12."

The court finds the contents of the notice to terminate tenancy, served on all Defendants, was sufficient in giving thirty (30) days notice to vacate the property.

Defendant fails set forth specific facts showing that a triable issue of material facts exists as to the cause of action.

Damages/Judgment:

For purposes of MSJ, Plaintiff indicates she will waive her claim for Civil Code § 1174 damages.

The moving party is ordered to prepare a judgment and dismissal conforming to the court's order within 10 days of the hearing date.

Unless a hearing is requested, this ruling is effective immediately.

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