

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-003

Complainant: No. 1383610488A

Judge: No. 1383610488B

ORDER

The complainant alleged a justice of the peace failed to issue a sufficient award in a default judgment. The commission reviewed the complaint, the judge's response, and the recording of the hearing and found no evidence of ethical misconduct on the part of the judge. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: April 22, 2010.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on April 22, 2010.

This order may not be used as a basis for disqualification of a judge.

State of Arizona
 Commission on Judicial Conduct
 1501 W. Washington Street, Suite 229
 Phoenix, Arizona 85007

COMPLAINT AGAINST A JUDGE

Your name:

Judge's name:

Date: 12/28/09

I am filing this complaint against this Judge because I do not believe he is ethical nor do I believe he supports Arizona law for the following reasons:

First, I would like to state that I was in small claims court the morning of the 28th for a default judgment against my previous landlord, Dr. because I gave him \$100 for a security deposit on August 25 for a six-month rental on a room at 60 Buena Vista Dr. in Sedona. When I asked him about the lease, he said we would write it up when I paid the first month's rent. When I paid him the \$425 he had me sign a month-to-month lease. When I asked him why it was not the 6-month form lease that we had agreed on, he said this month-to-month form was just easier and the one he used. I just thought that he had had some bad experiences, but I was not concerned at that point because I knew I would do my part. Looking back I see that he said one thing and did something else every step of the way in his effort to defraud.

On September 22nd the house was sold in foreclosure and I had to move. Dr. did not return my deposit, give me a 30-day notice that it was going into foreclosure nor returned the money he charged me for rent when he did not own the house (Sept. 22nd – Sept. 30th).

On December 28th I went to court a little early. The Judge was late and Dr. was not there.

I was the second case to be heard so the lady who was the first mentioned about not starting on time as that was normal. The Defendant of the first case showed up for the first time at this hearing. The Judge told her that she was not to speak because she had not communicated with the court before that morning. He then gave the Plaintiff her Default Judgement after he heard what she was asking as he did not have any paperwork to refer to.

When the Judge returned for my case, I was shocked when he said to me as he was coming in, "I am not paying you a month of free rent." He said that twice more that morning. I was not asking for a month of free rent. I was asking for what was equal to a month's rent because the landlord did not give me a 30-day notice that I had to leave as per A.R.S. 33-1375. And I was not on trial nor should I have been the focus.

It was the landlord's action that he was supposed to be looking at in relation to the law. The landlord was not even there nor had he responded so I did not understand the Judge's attitude unless he made some assumptions about me that were not true. The reason I say this is because I had two very black eyes. I had slipped and fallen in the bathroom and hit my head and nose very hard on the evening of December 21st because of all the stress.

Then he asked if the Defendant was served as he thumbed through my papers so he had not even read

or looked fully at my documents until then. I had copied all my documents and left them when I filed my case so that he could be prepared. Then he asked me if I had a lease which was also there. I felt very intimidated because he already said he was not giving me what the law said I was entitled to so I did not understand what his point was in asking me anything. I explained that I rented the room based on a 6-month agreement but then when I went to sign the lease, the landlord had me sign a month-to-month form. So the Judge asked me again which was it so I told him what he obviously wanted to hear that it was a month-to-month form which had nothing to do with the default judgment because I was still entitled to a month's rent for the landlord not giving me notice. Then he wanted to know how long I had lived there so his total focus was on me not on what my claim was.

He said again that he was not giving me a month's free rent so I asked him about a lease being a legal contract and he said that the man was no longer living in the house or owned the house. A lease is not based on whether a landlord lives in a house or not.

I should not have had to justify myself for asking what the established law states are my rights as a tenant. I was in court because of what the landlord did that was illegal, not what I did. And the Judge supported the landlord who was not even there.

I asked the Judge about the double standard that the landlord didn't have to follow the law and he just said that I had filed in the wrong court and I should have gotten legal counsel.

Actually I had spoken to Mr. _____ a Landlord Tenant lawyer, but I had given up at that point that the Judge could even hear anything I had to say without judging it as wrong. I did not have the money to pay for a civil court case and those were harder to prove so I made the decision to go to small claims because the Judge is supposed to be in compliance with the Arizona Court Rules and he did not follow them.

The Judge gave me a \$200 default judgement (\$100 for my deposit and I do not know the logic behind the other \$100) plus \$80 court costs so in essence he said that it was okay for the landlord to do what he did because he did not hold him accountable for his behavior or his impact on my life when he broke the law because he did not award to me what the law said I was allowed.

I did not understand why he accepted what the first Plaintiff requested and yet, he did not treat me the same. Her Defendant showed up and mine did not.

The law is not the problem. It is the official who is picked or appointed who does not follow the law that is the problem and that is why I am writing this complaint. He was supposed to be hearing my case, not interrogating me and telling me I did not have the rights I did nor assuming things that were not true about me. I was in small claims court because I had a small claims case with a defined outcome and it was arrogance on his part to tell me I was in the wrong court and that I should have gotten legal counsel.

I know that this complaint will not help the injustice I received, but I am hoping that someone on your committee does stand for integrity and the law. And even more than that, a Judge really does need to respect each individual's right to the law no matter what and to treat each individual as their employer - someone paying their salary in a respectful way by listening and not using it as a means to act out personal issues by shaming and blaming. My experience in court was brutal and totally uncalled for

and I do not want to support a system where you are put on trial and criticized in public just for asking for your due diligence.

I have a degree and I am professional so I know the difference between not liking what someone does or who they are and still being able to treat them in a professional way. I did not receive that professionalism.

In closing, the two principles I believe the Judge did not uphold are principles one and two.

In principle number one, he was not impartial nor did he show integrity for the law in his judgment nor his explanation of his reasoning. And in principle number two, he did not perform his duties of judicial office impartially, competently or diligently as it seemed to me that he did just the opposite for the reasons I stated in this complaint.