

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 07-199

Complainant: No. 1137710530A

Judge: No. 1137710530B

ORDER

The commission reviewed the complaint filed in this matter and determined that the judge was taking appropriate steps to ensure that the conduct did not reoccur. Accordingly, the commission voted to dismiss the case with a comment to the judge pursuant to Rules 16(a) and 23(a).

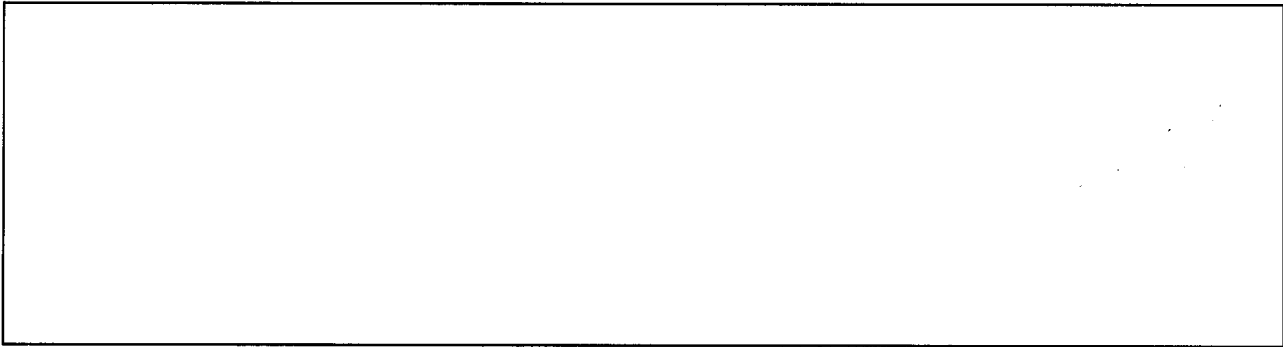
Dated: December 4, 2007.

FOR THE COMMISSION

\g\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on December 4, 2007.

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



July 25, 2007

JUL 27 2007

Commission on Judicial Conduct
1501 W. Washington Street, Ste. 229
Phoenix, Arizona 85007

CJC-07-199

Re: Complaint with regard to Justice of the Peace [redacted]
[redacted]

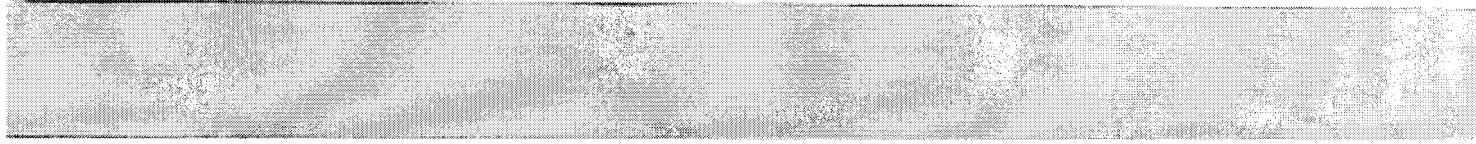
To the Commission:

I am filing this complaint in my capacity as [redacted]
[redacted] At issue is an eviction hearing which took place on [redacted] at the [redacted]
Justice Court. [redacted] was not directly involved in the case. We came to
learn about what happened to tenant [redacted] inadvertently while listening to the recording
of another, also troubling, proceeding in JP [redacted] courtroom. We bring this matter to the
Commission's attention because we believe that JP [redacted] failed to perform his judicial duties
adequately in [redacted] case and that his performance in that case is representative of how he
handles special detainer cases in general.

A brief synopsis of the matter is provided below. Copies of the CD-Rom, hearing
transcript and the justice court's file are included herewith. In addition, I am providing a copy of
the letter [redacted]
[redacted] received from JP [redacted] about this matter.

According to the court's file, [redacted] was given a "Notice to Vacate for Non-
Payment of Rent" on [redacted]. The Notice was defective on its face. See A.R.S. §33-
1368(A)(2). Rather than affording [redacted] five days to cure the alleged breach as required by
law, he was notified that he had three days to pay or vacate. Without waiting for the expiration of
even three days, [redacted] landlord filed a Complaint seeking his eviction the following day.
In it, the landlord alleged that [redacted] had materially and irreparably breached his lease
agreement by "sub-leasing" (attempting to acquire a roommate), "smoking in the home" and
changing the locks.

The matter went to trial on [redacted]. The proceeding was most troubling for the
following reasons. First, there is no indication that the court reviewed the file to ensure that the
landlord had complied with the statutory pre-requisites of notice prior to allowing the landlord to
go forward. Had such a review been conducted, it is presumed the court would have realized that



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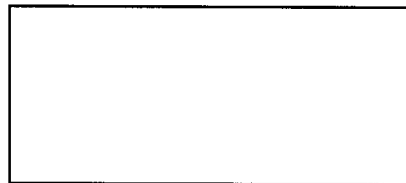
the notice for non-payment of rent was defective; that the landlord actually failed to afford [] time to cure prior to filing the action; and that the landlord had failed to provide any notice with regard to the request that an immediate eviction be ordered. Second, though the landlord alleged that [] had materially and irreparably breached his lease agreement in a manner constituting grounds for immediate eviction, she did not produce a copy of the agreement. This is important because in and of themselves, none of the reasons she cited actually constitutes grounds for eviction pursuant to the Arizona Residential Landlord Tenant Act. Third, and perhaps most importantly, the evidence presented by [] landlord is grossly insufficient to constitute grounds for an immediate eviction in Arizona.

Under Arizona law, an eviction that requires a tenant to vacate the premises within 12-24 hours is permitted under only the most extreme circumstances. Clearly, the comprehensive legislation passed into law as an "emergency measure" to target serious adult crime in 1994 was not intended to address the issues raised by [] landlord. It was intended to target tenants who engage in serious criminal activity - drug sale and manufacture, homicide, unlawful discharge of a fire arm - or serious property damage. It was intended to afford landlords with an expeditious remedy by which to safeguard themselves, other tenants and their property from serious damage. A.R.S. §33-1368(A)(2). It was not intended to strip tenants such as [] of their housing or to deprive them of time to secure an alternative place to live and move their belongings.

[] was entitled to proper notice of non-payment of rent and an opportunity to cure within five days. In the event of eviction, he was entitled to a period of no less than five days to vacate the premises, not 12-24 hours. In the alternative, he was entitled to a period of ten days to cure the other alleged breaches - smoking, seeking out a roommate, changing the locks. As it was, the evidence presented by the landlord was grossly insufficient to support her allegation that [] had committed a material and irreparable breach within the meaning of A.R.S. §33-1368, justifying his immediate eviction.

We believe that JP [] allowed [] landlord to misuse the law to evict him without proper notice and without sufficient grounds. We believe the proceedings in this case as well as the supporting documentation evidences his bias in favor of landlords. For your convenience I am including a transcript of the hearing in which [] participated on [] and an Order handed down by Judge [] of the [] Superior Court which addresses similar concerns about JP []. Because JP [] does not seem amenable to guidance from the higher court, we appeal to the Commission to address this matter.

Thank you for your time and attention. Please feel free to contact me if I can be of further assistance.



enc.

1. The justice court's file does not include a copy of the Summons. Please see document "G" fax received from the court clerk verifying that the file does not include the Summons.