

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-016

Judge:	No. 1460711003A
Complainant:	No. 1460711003B

ORDER

The complainant alleged a pro tem justice of the peace was not fair and impartial in a small claims case.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the information provided by the complainant, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: February 20, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on February 20, 2013.

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

January 26, 2013

To Whom It May Concern:

My complaint is against Judge Pro-Tem for Court Precinct #2, who violated Rule 1.2 of the code requiring judges to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary”; rule 2.2 which similarly requires judges to perform all judicial duties fairly and impartially; and rule 2.3 which prohibits a judge from exhibiting bias or prejudice.

My small claims court case was against my former landlord. The landlord failed to comply with Section 33-1321, subsection D of the Arizona Residential Landlord and Tenants Act by not returning my security deposit (\$900) or receipts showing what the deposit was spent on, and did not refund \$174 overpayment of July 2012 rent (occurring because landlord did not adhere to conditions of lease agreement by giving 30-day notice to change conditions of lease).

Landlord countered that I owed her money due to not returning her property at the end of the lease when I vacated the premises, which necessitated her changing locks and charging me rent after moving out; and for security system fees. I retained her property (which was worth less monetarily, than the amount she owed me) because the money for overpayment of rent was not returned to me by her, nor did she even acknowledge owing me the money.

Judge demonstrated bias in his handling and ruling in this case by not addressing any of my claims, and only responding to the claims made by the defendant. At no time during the court proceedings, or in his written ruling, did he question or assign accountability for the defendant’s illegal actions:

- 1) Defendant did not adhere to the condition of the lease requiring 30-day notice of any changes (defendant notified me 17 days before the end of the lease that she intended to raise the rent by \$285/month) which resulted in my overpayment of the last month’s rent made because I didn’t know she intended to raise the rent, and had planned on continuing to reside in the house under the conditions outlined in the lease agreement. Her action in not adhering to the conditions of the lease was the catalyst for the ensuing chain of events, which required intervention by the court, and yet was not addressed by the judge, in court, or in the ruling.
- 2) Defendant illegally retained my money (\$174.00) which was overpayment of the last month’s rent and only occurred because of her negligence in not providing the 30-day notice, required by the lease agreement, of any changes made in the conditions of the lease. Again, this was not addressed in court or in the ruling.
- 3) Defendant did not provide receipts, nor a refund of security deposit, by time required by the Arizona Landlord and Tenants Act. Subsection E states tenant is entitled to recover money due tenant together with damages in an amount equal to twice the amount

wrongfully withheld. Even if the judge deemed that the claims of money owed the landlord by the tenant exceeded that which was owed to the tenant, it should not excuse the landlord from having to follow correct procedures according to the law, regarding the handling of security deposits.

FOR THE JUDGE TO IGNORE THESE FACTS AND NOT ADDRESS THEM IN COURT, OR IN HIS RULING, DEMONSTRATES BIAS AGAINST THE TENANT/PLANTIFF.

He questioned me in court about complaints the defendant had regarding my actions, which weren't even relevant, yet he didn't ask her a single question about her actions, which I cited in the complaint, and listed above. He treated me as if I were the defendant. She did not dispute any of my complaints, yet the judge did not take any of them into consideration during the hearing or in the judgment.

Furthermore, I received the written ruling from the judge, claiming I owed the landlord for monthly security system fees, which shocked me, so I sent him a letter requesting a reconsideration of his ruling, along with copies of e-mails (which were part of landlord/defendant's response/counter claim) from the Realtor who created the lease, which provided irrefutable proof that I was NOT responsible for the security system fees. The Realtor had not been aware of the contract the landlord had with the security system company and admitted this in a message to the landlord, stating she did not include it in the lease. He responded to my request to reconsider, by again ignoring the facts I presented, and quoted a different message he found from the Realtor, which was in direct contradiction to the ones I identified, which contained misinformation from the Realtor, who was clearly attempting to avoid accountability for her role in the miscommunication. He claimed I should have brought the Realtor to court with me, but the Realtor is not cooperative and more interested in protecting her position, than in being honest and having justice served. I should not be penalized for that fact.

I believe that the judge's actions have not been impartial or reasonable, and I cannot understand his motives (perhaps he is a landlord and has a bias against tenants in general). Whatever the cause, it is quite disturbing that an officer of the court is permitted to pick and choose the facts he takes into consideration to arrive at a verdict he seems to personally desire. I went to the court for help in good faith, believing justice would be served, treatment would be fair, and my rights upheld according to the law and signed legal documents. I am disappointed and dismayed by this experience. I truly do not believe that this case was handled professionally or justly, and feel it is my civic obligation to inform you of this incident. I am a high school teacher and I fear that this, my only experience with the justice system, will make it much more difficult for me to encourage my students to have faith in our system, since I have lost confidence in it.

Respectfully,