

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 15-279

Judge:

Complainant:

ORDER

The complainant alleged a small claims hearing officer prejudged her case and based his rulings on his personal experiences rather than the evidence presented.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the hearing officer 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 review, the commission found no evidence of ethical misconduct and concluded that the hearing officer did not violate the Code in this case. The commission approved sending the hearing officer a warning letter advising him to refrain from making comments that give the appearance that he has prejudged a case so as not to violate Rule 1.2 (Promoting Confidence in the Judiciary) and Rule 2.2 (Impartiality and Fairness). The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Commission members Anna Mary Glaab and J. Tyrrell Taber did not participate in the consideration of this matter.

Dated: February 5, 2016

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were mailed
to the complainant and the hearing officer
on February 5, 2016.

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

I understand the commission cannot reverse court orders or assign a new judge to a case.

I declare, under penalty of perjury, that the foregoing information and the facts I have provided upon which my allegations of judicial misconduct are based are true and correct.

Signature: _____

Date: _____

INSTRUCTIONS

Use the following space or plain paper of the same size to explain your complaint. Explain why you believe what the judge did constitutes judicial misconduct. Be specific and list the names, dates, times, and places relevant to your allegations. Additional pages may be used and relevant copies of documents may be sent with your complaint (please do not send original documents). Use one side of each page only and write legibly or type your complaint. Please keep a copy of your complaint for your records.

Please see attached.

Complaint against Judge

1. The judge was presented, before the case even began, the fact that the suit was brought against the incorrect party. I presented him with a copy of the lease showing that the landlord of the property is clearly stated on the first line and that _____ is only their agent and not a party of interest or owner of the property in question. The judge asked me what my position was with _____ and if I had proof of authority to speak. I advised him that I am the Property Manager for this property, and that my name is on the lease. He said that was fine and that he would proceed with the case as presented.
2. He then asked the Plaintiff what they were suing for and they stated their case. Then he asked me to respond. Before I responded, and before he even looked at any of the evidence, he stated, "_____. So, his mind was already made up on this subject. He also made comments that cleaning is normal wear and tear and that based on the pictures we provided, it looks like just 10 minutes of dusting. I brought the representative of the cleaning company with me, _____. She was sworn in, however the judge did not ask her one single question regarding the cleanliness of the home or why it took her the time that it did. The judge was presented with the following:
 - a. The tenant's move in which showed that there wasn't any notation by us or the tenant of the home being dirty.
 - b. The bills from the house being cleaned and landscaped the morning the tenant moved into the home.
 - c. The copy of our lease which details out all of the items that must be cleaned upon move-out
 - d. Photos of the dirt.
 - e. The Security Deposit Disposition with breakdown of all charges and bills attached.
 - f. The tenant was only in the house for _____.Not only did he not take any of this into consideration, he stated that since the lease didn't state it had to be "_____ " he would not allow the bill. He stated 4-5 times that _____ for cleaning regardless of the size of the house or amount of dirt.
3. Regarding landscaping – he called my other witness, _____ to be sworn in. He did ask _____ some clarifying questions, but then didn't believe anything he stated.

The Judge actually stated, “

”

4. Tick Treatment – I had [redacted] there as a witness to the ticks in the home as well as a bill from [redacted] for the treatment. First the judge read the entire contract from [redacted] and said that he would not allow the treatment because [redacted] states in their contract that they will not treat for ticks. Then I asked to approach the bench and showed him where it states that they were treating for ticks. [redacted] wrote the treatment as follows on their invoice, “ [redacted] ” The judge only saw the backyard portion of the statement and disallowed the tick treatment without asking any questions. This is one of the main reasons I brought her. In addition, I pointed out to the judge that there were no ticks notated on their move in sheet and they never called in to have ticks treated in the home, therefore we can infer that they were from their dogs. He said [redacted] In the lease it clearly states that pest control is the tenant’s responsibility as well.

5. Repairs – the tenant was charged \$150 for some touch up paint in one bedroom and to repaint two walls in another bedroom and that is all. The judge lectured me on how paint in normal wear and tear and that the owner should re-paint the entire house between every tenant. When I advised the judge that this would require \$1500-\$2000 expense to the owner possibly every year, he then said [redacted] This is what we did and we only charged the tenant for the touch up that was not on their move in sheet. He also said [redacted]

6. The judge also awarded the tenant their filing fees, is this customary?

In conclusion, this judge had his mind made up before reviewing any of the information presented to him. He also had no intention of asking my witnesses any questions, even though I objected several times to him that he did not ask them anything. He just kept stating that he has heard many of these cases and he never [redacted] and lectured me on normal wear and tear. The fact that he allowed the case to move forward when filed against the incorrect party is a blatant disregard for the law. I have sat through many of these cases and I have never had a judge be so blatantly one sided and ignorant of the laws, not to mention total disregard of the legal binding contract set in front of him that the tenant signed.

Respectfully Submitted,