

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 27, 2007

A. John Voelker
Acting Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2006AP2605

Cir. Ct. No. 2005SC27668

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

MILWAUKEE CITY HOUSING AUTHORITY,

PLAINTIFF-RESPONDENT,

v.

MICHAEL P. JANKOWSKI,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: MICHAEL B. BRENNAN, Judge.¹ *Affirmed.*

¶1 CURLEY, J.² Michael P. Jankowski appeals the oral judgment of eviction entered by the trial court on October 10, 2006. In a rambling *pro se* brief,

¹ The Honorable Jean W. DiMotto signed the stipulation and order for dismissal. The Honorable Michael B. Brennan ordered the entry of a judgment of eviction and the writ of restitution.

² This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2005-06).

Jankowski challenges the trial court's determination that he violated a stipulation agreed upon by the parties, the trial court's entry of a judgment of eviction and issuance of a writ of restitution. Because Jankowski clearly violated the stipulation entered eleven months earlier, in lieu of proceeding in an eviction action seeking Jankowski's eviction, the trial court properly reinstated the eviction action, and granted a judgment of eviction and a writ of restitution. Consequently, this court affirms.

I. BACKGROUND.

¶2 In July 2005, Jankowski lived in an apartment at 1800 West Becher Street in the City of Milwaukee. The building, known as the Becher Court Development, is run by the Housing Authority of the City of Milwaukee (HACM). This subsidized housing site is restricted to the elderly and disabled persons. Jankowski's lease included a provision that he would refrain from permitting unauthorized people to enter the building. In August 2005, HACM brought an eviction action against Jankowski, alleging that Jankowski allowed Lisa Rios into his apartment, knowing that she was forbidden to enter the property as she had previously been found to be a trespasser, and Jankowski was aware of her status.

¶3 On the return date for the eviction action, Jankowski and HACM entered into a stipulation, the terms of which Jankowski agreed to abide by for one year. The stipulation, signed by the judge on October 18, 2005, called for the dismissal of the eviction action against Jankowski if he agreed, *inter alia*, "to take no action to assist Ms. Rios to enter or remain on HACM property" and "to be fully compliant with the medical and pharmaceutical regimen prescribed by his treating medical professional, or treatment facility," and have this compliance verified through weekly telephone calls by his mother.

¶4 On October 3, 2006, HACM’s attorney filed an affidavit of noncompliance and application seeking to vacate the dismissal of the eviction action, alleging that Ms. Rios was found in Jankowski’s apartment. At a hearing at which Jankowski appeared with an attorney, his attorney argued that there was substantial compliance with the stipulation, as Jankowski had abided by the stipulation for approximately eleven months. In addition, his attorney explained to the court that Jankowski permitted her to come into his apartment for humanitarian reasons, as Rios had no place to go. His attorney also advised the trial court that Jankowski’s medications were to have been monitored by an agency rather than Jankowski’s mother, who had eventually stopped making the required calls, and that at the agency “[s]omehow somebody did drop the ball.” The trial court heard testimony from HACM’s witnesses and allowed Jankowski to address the court. Following the arguments of counsel, the trial court found that “there’s been a willful violation” and granted a judgment of eviction. The trial court did, however, stay the enforcement of the writ of restitution until the next month. A notice of appeal was filed on October 19, 2006. The writ of restitution was stayed until November 15, 2006. Later, a motion seeking a stay of the writ of restitution was filed and denied by the trial court. The record contains documentation that Jankowski’s personal effects were removed from the apartment on November 28, 2006.³

³ Although Jankowski’s notice of appeal was filed on October 19, 2006, there was a delay caused first by Jankowski’s failure to pay the filing fee or to submit an affidavit of indigency, and later because no statement on transcript was filed. This court eventually waived the requirement for a statement on transcript. Jankowski has submitted numerous “briefs,” several of which have been rejected as not being in proper form. A seventeen-page document submitted on January 25, 2007, was rejected as being “unintelligible,” as well as a brief filed on February 22, 2007, which was found to be both “unintelligible” and “incoherent.” A brief dated January 11, 2007, and received on January 16, 2007, is also going to be disregarded as much of it is difficult to understand and not relevant to the issues raised in this appeal. This court has

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II. ANALYSIS.

¶5 This case requires the court to determine whether the trial court correctly found that the stipulation that the parties entered into as a means of resolving the eviction action was violated. This is a factual determination. We uphold the circuit court's findings of fact unless they are clearly erroneous. WIS. STAT. § 805.17(2) (2005-06);⁴ *State v. Pozo*, 2002 WI App 279, ¶6, 258 Wis. 2d 796, 654 N.W.2d 12.

¶6 As best as this court could determine, Jankowski submits that his eviction and writ of restitution should be overturned because: (1) it has caused him extreme hardship; (2) his agreement to the stipulation was coerced; (3) he was motivated to violate the stipulation because he was a "Good Samaritan"; (4) the no-trespassing policy was arbitrarily issued against Rios; and (5) he abided by the stipulation for eleven and one-half months and has been, in all other respects, a good tenant.

¶7 This court addresses each of Jankowski's arguments in turn. This court understands that Jankowski's violation has had severe consequences, including his involuntary removal from the property. Nevertheless, HACM compromised its earlier request for an eviction judgment against him by agreeing to dismiss the action if Jankowski promised to abide by certain rules. He failed to do so, and HACM was within its legal rights to have the eviction action reinstated.

utilized Jankowski's brief filed with this court on October 23, 2006, in deciding this matter. It should be noted that this court was assigned to this case and received the briefs and record on March 13, 2007.

⁴ All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

As to his contention that he was coerced into entering into the stipulation, besides Jankowski's bald assertion, there is nothing in the record to suggest that he was coerced. Further, no objection was ever raised to the stipulation until the eviction action was reinstated.

¶8 Regarding Jankowski's Good Samaritan defense, although Jankowski argues that he was motivated by sympathy for Rios, that is not a legal defense to HACM's actions against him. The record establishes that Rios had caused problems while at HACM housing, and it was within its rights to banish her from its housing. As to his claim that the trespassing ban was arbitrary, Jankowski has no standing to challenge HACM's decision to commence trespassing charges against Rios. Finally, the fact that Jankowski had been a law-abiding tenant for five years and had not violated the stipulation for eleven months does not defeat HACM's request. While this court is sympathetic to Jankowski's plight, his arguments are not a defense to the fact that he violated the stipulation, and the trial court's determination that he did so is not clearly erroneous.

¶9 For the reasons stated, the trial court's determination is affirmed.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

