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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0819-22**

PATRICK CALABRIA II,

Plaintiff-Respondent,

v.

JASON RITCHWOOD,

Defendant-Appellant.

Submitted May 13, 2024 – Decided May 29, 2024

Before Judges Mawla and Vinci.

On appeal from the Superior Court of New Jersey, Law
Division, Hudson County, Docket No. LT-006962-20.

Jason Ritchwood, appellant pro se.

George Gerald Gundersen, III, attorney for respondent.

PER CURIAM

In this landlord/tenant action, defendant Jason Ritchwood appeals from the: (1) January 26, 2022 order scheduling a Marini¹ hearing; (2) February 11, 2022 judgment for possession by default; (3) April 8, 2022 warrant of removal; (4) April 27, 2022 order denying his order to show cause; (5) June 1, 2022 order denying his motion to dismiss; (6) July 8, 2022 order denying his motion to dismiss; (7) September 12, 2022 order denying his motion to dismiss; and (8) October 7, 2022 order denying his motion for trial de novo.

On April 1, 2017, defendant, as tenant, and plaintiff Patrick Calabria, as landlord, entered into a "month[-]to[-]month rental agreement" for a premises located on New York Avenue in Jersey City at the monthly rate of \$955. On October 26, 2020, plaintiff filed this summary action for possession of the premises based on non-payment of rent. Plaintiff alleged defendant failed to pay rent beginning July 2020. As a result of the COVID-19 pandemic, trial was not scheduled until January 26, 2022. At that time, individuals were required to wear masks in public buildings, including courthouses. See Sup. Ct. of N.J., Notice to the Bar: COVID-19 – All Persons in Judiciary Facilities for Judiciary Business Required to Wear Masks or Face Coverings and Maintain Social Distancing, ¶¶ 1, 4 (June 9, 2020).

¹ Marini v. Ireland, 56 N.J. 130 (1970).

Defendant was not permitted to enter the courthouse for trial because he refused to wear a mask. The court accommodated his refusal to wear a mask by permitting him to participate in the trial remotely. Defendant advised the court that he stopped paying rent as of August 2020 because of "gross neglect on the roof, because animals would come in, and [he] got bit by fleas." Based on defendant's representation that he withheld the rent because of the condition of the premises, the court scheduled a Marini (habitability) hearing for February 11, 2022.

At the time of trial, defendant owed back rent in excess of \$17,000. The court ordered defendant to deposit \$15,000 in court by January 28, 2022, as a condition of conducting the Marini hearing. The court advised defendant if "it[is] not deposited into the [c]ourt . . . the attorneys for plaintiff can . . . ask . . . for a default judgment" and "[the court] will be issuing an [o]rder for [p]ossession." The court entered an order accordingly.

Defendant did not make the required deposit. On February 11, 2022, defendant appeared at the courthouse and was not permitted to enter because he refused to wear a mask. The court adjourned the hearing until 1:30 p.m. to permit defendant the opportunity to participate remotely as he did previously. Defendant failed to appear in person or remotely for the hearing at 1:30 p.m.

and the court considered plaintiff's application for judgment for possession by default in his absence.

The court found defendant failed to comply with the January 26 order requiring that he deposit back rent and, therefore, was not entitled to a Marini hearing. After confirming defendant was served with the relevant orders, the court found defendant in default and entered the judgment for possession by default. The judgment for possession permitted a warrant of removal to be issued after April 8, 2022.

A warrant of removal was issued on April 8, 2022. On April 27, defendant filed an emergent application by way of order to show cause seeking to vacate the judgment for possession. The court scheduled a hearing on the application for that afternoon. Defendant appeared at the courthouse but was not permitted to enter because he refused to go through the metal detector. Defendant advised court staff that he did not have a phone and could not participate remotely. As a result, the court denied his application without prejudice.

Defendant filed a motion to dismiss, which was denied by an order entered June 1, 2022. The court found defendant "provided no reasoning" and the matter was "no longer active as [he] ha[d] vacated the premises."

Defendant filed another motion to dismiss for lack of jurisdiction, which was denied by an order entered July 8, 2022. The court found defendant's claim that "there was no contract and therefore no [jurisdiction] of the court" was "baseless."

Defendant filed a third motion to dismiss for lack of jurisdiction, which was denied by an order entered September 12, 2022. The court noted it was the third time defendant presented the same arguments and found as follows:

This is a landlord[/]tenant matter in which [the] landlord sought and obtained a judgment [for] possession by default on February 11, 2022. A warrant of removal was issued and [defendant] was locked out of his residential premises on April 18, 2022. As such, this case is now closed. Landlord has regained possession of their property.

[Defendant] claims there was no contract and no jurisdiction. As stated above, this matter arose from a non-payment of rent case. The argument is without merit.

Defendant then filed a motion for a trial de novo, which was denied by an order entered October 7, 2022. The court found the motion was denied "for the reasons [enumerated] in the [c]ourt's prior [o]rders dated June 1, . . . July 8, . . . and September 12, 2022." The court rejected defendant's request for a jury trial because "there is no right to a jury trial in landlord/tenant matters."

On appeal, defendant argues the court erred in granting default judgment because: (1) he "was denied public court entry"; (2) plaintiff misrepresented material facts; (3) the court lacked subject matter jurisdiction; and (4) plaintiff was not entitled to damages or additional fees as rent.

We review the various orders that are the subject of this appeal for an abuse of discretion. See Balsamides v. Protameen Chems., Inc., 160 N.J. 352, 372 (1999) (trial court's factual findings following a non-jury trial); US Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449, 467 (2012) (motion to vacate default); Pitney Bowes Bank, Inc. v. ABC Caging Fulfillment, 440 N.J. Super. 378, 382 (App. Div. 2015) (reconsideration). An abuse of discretion is committed "when a decision is 'made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.'" Guillaume, 209 N.J. at 467-68 (quoting Iliadis v. Wal-Mart Stores, Inc., 191 N.J. 88, 123 (2007)).

We affirm substantially for the reasons set forth by the court in its decisions as summarized above. We add the following comments.

The court's decision to enter the judgment for possession by default was supported by sufficient credible evidence in the record. Defendant conceded he stopped paying rent as of August 2020, and plaintiff established defendant owed more than \$17,000 in unpaid rent at the time the judgment for possession was

entered. Defendant was afforded the opportunity to present his habitability arguments at a Marini hearing but failed to make the required deposit of the rent he allegedly withheld and failed to appear for the scheduled hearing.

Defendant's claim that the Judiciary was not permitted to require individuals to wear masks when entering courthouses during the COVID-19 pandemic lacks merit. In response to the COVID-19 "public health emergency," the State took "many actions . . . to protect the common good." Matter of City of Newark, 469 N.J. Super. 366, 385-86 (App. Div. 2021). Requiring that all persons who entered courthouses wear masks was one such action. Moreover, defendant was not prevented from participating in any of the proceedings in this case. The court accommodated his refusal to wear a mask and go through the metal detector at the courthouse by allowing him to participate remotely. On the occasions defendant did not appear, it was because he failed to avail himself of the opportunity to participate remotely.

Defendant's claim that the court failed to grant his application for a jury trial lacks merit. There is no right to a jury trial in a landlord/tenant summary action for possession of premises. Peterson v. Albano, 158 N.J. Super. 503, 506-07 (App. Div. 1978). Similarly, defendant's claim that the court awarded fees and costs not permitted under the rental agreement is incorrect. In a

landlord/tenant action, the only relief available is recovery of the premises. No other causes of action, including a claim for unpaid rent, fees, or costs, may be joined. R. 6:3-4. Accordingly, the only relief awarded in the judgment for possession was recovery of the premises. The court did not enter a monetary judgment for damages against defendant.

To the extent we have not addressed any of defendant's remaining arguments, it is because they lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office

CLERK OF THE APPELLATE DIVISION