

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL ACTION

TRUCITY ASSETS LLC

vs.

MISHAN KELLER and LINDSEY SOMMERS

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:
:

NO: 26-CV-0773

Counsel:

Richard L. Orloski, Esquire

Mishan Keller

Lindsey Sommers

Counsel for Plaintiff/Appellee

Pro Se

Pro Se

MEMORANDUM OPINION

Nanovic, P.J. – October 2, 2026

On September 22, 2026, Defendant Mishan Keller, appearing *pro se* for himself and his family, filed an eight-page document in the Carbon County Prothonotary's Office designated as both a Notice of Appeal and a Motion to Vacate and Void Voidable Orders, Quash Writ of Possession, Consolidate Interconnected Cases, and Request Immediate Assignment of an Unconflicted Out-of-County Judge. (Mishan Keller and his wife, Lindsey Sommers, are hereafter referred to collectively as "the Defendants"; Mr. Keller's family is not a party to these proceedings). This document purports to appeal rulings by two different judges of the Carbon County Court of Common Pleas in two separate and distinct cases, each having its own docket and docket number, namely Docket Nos. 26–CV–0773 and 26–CV–0419, where docket entries pertaining to each case are separately

entered to the specific case to which they relate ensuring that each case maintains its own identity. The two cases have never been consolidated for any purpose.

Defendants' Notice of Appeal fails to identify any particular order or the date of any specific order in either case appealed from other than stating in broad terms that it applies to "all prior unlawful, voidable orders issued under Lower Court Dockets No. 26-CV-0773 and No. 26-CV-0419." In addition to other defects in the appeal, some of which we discuss briefly in Footnote 3 below, Defendants' appeal in the case docketed to No. 26–CV–0773 obscures the simple and dispositive fact that Defendants have failed to file a timely appeal from a final order.

This Opinion is limited to Case No. 26–CV–0773 assigned to the undersigned, Roger N. Nanovic, President Judge, with case number 26–CV–0419 being separately assigned to and handled by the Honorable Steven R. Serfass of this court.

PROCEDURAL AND FACTUAL BACKGROUND

This case at the common pleas level began with the filing of a notice of appeal by Defendants, Lindsey Sommers and Mishan Keller, on April 10, 2026, from a judgment rendered by Magisterial District Judge Eric M. Schrantz with respect to a residential lease between the parties. This was followed by a two-count Complaint filed by Plaintiff, Trucity Assets, LLC, (as former landlord) on May 4, 2026, against Defendants, Lindsey Sommers and Mishan Keller (as former tenants).¹

¹ On April 21, 2026, Plaintiff filed a Praecipe to Strike the Appeal pursuant to Pa.R.C.P.M.D.J. 1006 for failure to file a proof of service within ten days of filing the appeal, citing Pa.R.C.P.M.D.J. 1005(B). In response to Defendants' Emergency Motion/Petition to Reinstate Appeal and Stay Order for Possession

Count One of the Complaint set forth a claim for breach of contract for unpaid rent and monetary damages under the lease and Count Two asserted a cause of action in ejectment for Defendants' continued possession of the leasehold property at 273 Bankway Street, Lehighton, Carbon County, Pennsylvania, after the lease term had ended. Defendants filed an Answer, New Matter and Affirmative Defenses on May 18, 2026, questioning the conditions of the premises, to which Plaintiff filed a Reply on May 21, 2026. No counterclaim was included in Defendants' Answer.

On May 21, 2026, Plaintiff filed a Motion for Judgment on the Pleadings pursuant to Pa.R.C.P. 1034 and Carbon R.C.P. 1034(a). Argument on this Motion was held on August 11, 2026, and on the same date, the Court issued a final order filed on August 12, 2026, which granted Plaintiff's Motion as to Count Two on the basis of expiration of the lease term and dismissed Count One without prejudice as consented to by Plaintiff's counsel at the time of argument. See Pugh v. Holmes, 405 A.2d 897 (Pa. 1979) (abolishing the doctrine of Caveat emptor as applied to residential leases, adopting an implied warranty of habitability, holding that a lease is in the nature of a contract and is to be controlled by principles of contract law, and recognizing a tenant's right to defend against a breach of contract claim by a landlord seeking termination of the lease for unpaid rent and possession of the property where there exists a total or partial breach of the implied warranty of habitability, but not where termination of the tenancy is sought for

filed on May 1, 2026, by order of the same date, we granted the stay and ultimately, after a hearing held on May 4, 2026, reinstated Defendants' appeal the same day.

any reason other than non-payment of rent, such as expiration of the lease term). The August 11 2026, order specifically stated, *inter alia*, that “judgment of possession of 273 Bankway Street, Lehighton, Carbon County, Pennsylvania, is hereby entered in favor of the Plaintiff, Trucity Assets, LLC, and against the Defendants, Mishan Keller and Lindsey Sommers.”

On August 24, 2026, Plaintiff filed a praecipe with the Prothonotary's Office for a writ of possession and a writ of possession was issued by the Prothonotary on that same date. As stated in Defendants' Notice of Appeal, the writ was purportedly acted on executed by the Sheriff's Office on September 10, 2026, and Defendants have been evicted from the property.

Defendants have never filed an appeal from the August 11, 2026, order. Instead, Defendants filed a series of motions all promptly acted upon by the court as follows:

1. Emergency Petition for Special Relief, Release of Escrow Funds, Stay of Further Rent or Escrow Payments, and Expedited Evidentiary Hearing filed on August 21, 2026. This Petition was dismissed as moot by order dated August 25, 2026, in which we noted the granting of Plaintiff's Motion for Judgment on the Pleadings in regard to Count Two of the Complaint (in ejectment) and the dismissal of Count One for breach of contract, thereby completing the case;
2. Motion to Consolidate Related Matters and Request for Personal Appearance of Chelsea Ott filed on August 21, 2026. This Motion was dismissed as moot by order dated September 1, 2026, in which we again advised Defendants that the case docketed to No. 26–CV–0773 had previously been concluded by Order dated August 11, 2026;
3. Emergency Motion to Consolidate Related Actions, Stay Further Proceedings, and Schedule Expedited Evidentiary Hearing filed on August 25, 2026. This Motion was dismissed as moot by order dated September 1, 2026, in which we once more advised Defendants that the case docketed to No. 26–CV–0773 had previously been concluded by order dated August 11, 2026;

4. Emergency Motion for Special Relief, Expedited Evidentiary Hearing, Temporary Stay of Further Rent and Escrow Payment Demands, and Partial Release of Escrow Funds filed on August 25, 2026. This motion was denied by order dated September 1, 2026, in which we again advised Defendants that the case docketed to No. 26–CV–0773 was concluded and there was nothing further to be heard or decided in that case;

5. Notice of County Communications, Request for Record Preservation, and Request for Clarification and Expedited Review (also bearing Docket No. 26-CV-0419) filed on August 25, 2026. By order dated September 1, 2026, we advised Defendants that the case docketed to No. 26–CV–0773 had concluded, that the Notice appeared to have been improvidently filed and did not assert a cognizable claim to be heard in this case, and that the Notice was stricken and no further action would be taken by the court;

6. Notice of County Communications, Request for Record Preservation, and Request for Clarification and Expedited Review (also bearing Docket No. 26-CV-0419) filed on August 25, 2026. By order dated September 1, 2026, we advised Defendants that this Notice appeared to be a duplication of a similar notice filed on the same date, seven minutes earlier, and that this Notice would likewise be stricken and no further action taken by the court;

7. Emergency Petition for Immediate Release of Personal Property and Business Tools, Preservation of Evidence, and Expedited hearing filed on August 25, 2026. This Petition was dismissed by order dated September 1, 2026, again advising Defendants that the case docketed to No. 26–CV–0773 had concluded and that All Points Towing from whom Defendants sought relief was not a party to these proceedings;

8. Petition for Emergency Special Relief, Preliminary Injunction, Evidence Preservation, Return of Business Property, and Expedited Evidentiary Hearing filed on August 25, 2026. This Petition was dismissed by order dated September 1, 2026, advising Defendants that the individuals Defendants sought to name and include in these proceedings were not named parties and that therefore the Court had no jurisdiction in this case to issue an order binding on said additional individuals;

9. Emergency Motion for Recusal or Reassignment, Immediate Stay of Possession and Enforcement, Expedited Evidentiary Hearing, and Request for Neutral Outside Review (also bearing Docket No. 26-CV-0419) filed on August 26, 2026. This Motion was dismissed as moot by order dated August 31, 2026, further advising Defendants that the case docketed to No. 26–CV–0773 had been

completed;

10. Emergency Motion to Stay Sheriff Sale or Other Enforcement, Vacate or Reconsider Adverse Action, Preserve the Status Quo, and Schedule Immediate Hearing filed on August 31, 2026. This Motion was denied by order dated September 1, 2026, advising Defendants that there is nothing further in the case docketed to No. 26–CV–0773 that needs to be heard or decided;

11. Emergency Motion to Stay Possession Enforcement and Additional Rent-Related Obligations, Preserve Evidence, Permit Limited Expedited Discovery, Produce Case-Related Records, Coordinate Related Matter No. 26–CV–0419, and Schedule Expedited Evidentiary Hearing filed on August 31, 2026. This Motion was denied by order dated September 1, 2026, again reminding Defendants that there is nothing further in this case to be heard or decided; and

12. Emergency Motion for Immediate Stay of Writ Enforcement, Expedited Evidentiary Hearing, Coordination with No. 26–CV–0419, and Preservation of Records filed on September 1, 2026. This Motion was denied by order dated September 2, 2026, advising Defendants that “[c]ontrary to Defendants’ apparent belief, all issues for which claims were made in this case were concluded by the Court’s order dated August 11, 2026”, and “[t]here is nothing further to be heard or decided in this case.”

Most recently, on September 18, 2026, Defendants filed the following additional motions to which we have taken no action as Defendants have been repeatedly advised in prior orders that “this case is concluded and there is nothing further to be heard or decided in the case docketed to No. 26–CV–0773,” and because by the date of this filing no timely appeal had been taken from the August 11, 2026, final order:

1. Expedited Motion to List and Schedule Evidentiary Hearing, for Immediate Disposition of Pending Motions, and for Emergency Stay;
2. Expedited Motion for Preservation of Public Records, Disclosure of Record-Retention Policy, and Evidentiary Review of Alleged Official Misconduct, also bearing Docket No. 26-CV-0419;
3. Emergency Motion for Immediate Stay of Further Enforcement, Preservation of Property, Temporary Access to Essential Belongings and Work

Tools, and Expedited Evidentiary Hearing;

4. Application for Same Day Procedural Contact and Emergency Status Conference;

5. Expedited Motion to Require Lawful Procedure, Meaningful Evidentiary Hearing and Written Disposition of Pending Matters, also bearing Docket No. 26-CV-0419; and

6. Expedited Motion for Recusal, Assignment to a Neutral Judge, and Change of Venue, also bearing Docket No. 26-CV-0419.

See *also* Pa.R.A.P. 1701(b) (Effect of Appeal Generally: limiting authority of a trial court or other government unit after appeal); Pa.R.A.P. 1733 (requiring the posting of security by an appellant for an appeal from an order to operate as a supersedeas). On September 22, 2026, the same day Defendants filed their Notice of Appeal, Defendants also filed an Emergency Application for Special Relief, Stay Pending Appeal, and an Emergency Writ of Mandamus addressed to the Pennsylvania Superior Court, also bearing Docket No. 26-CV-0419.²

DISCUSSION

The Order dated August 11, 2026, granting Plaintiff's Motion for Judgment on the Pleadings as to Count Two of the Complaint (in ejectment), and dismissing Count One for breach of contract, without prejudice, is a final order. It disposed of all claims and all parties on the merits. See Pa.R.A.P. 341(b)(1) (definition of final order); Chongqing Kangning Bioengineering Co., Ltd. v. Conrex Pharmaceutical Corp., 327 A.3d 209, 214

² In addition to the foregoing, Defendants on September 8, 2026, filed the following two motions addressed to the Pennsylvania Supreme Court: Emergency Motion to Compel Acceptance of Escrow Payment and Maintain Stay of Possession Pending Appeal; and Petitioners' Application for Leave to File Amended and Supplemental Emergency Application for Immediate Interim Stay.

(Pa.Super. 2024). A notice of appeal from a final order must be filed within thirty days after the entry of the order and the failure to do so renders the appeal invalid. Pa.R.A.P. 903(a), 902(b)(2). “The timeliness of an appeal and compliance with statutory provisions granting the right to appeal implicate an appellate court’s jurisdiction and its competency to act”; accordingly, the failure to file a timely appeal “generally divests the appellate court of its jurisdiction to hear the appeal.” Commonwealth v. Williams, 106 A.3d 583, 587 (Pa. 2014).

Pursuant to Pa.R.A.P. 108(a)(1) and (b), the date of entry of an order in a civil matter is the date the prothonotary mails or delivers copies of the order to the parties and notes the same in the docket as required by Pa.R.C.P. 236(b), here August 12, 2026. In the instant matter, Defendant’s Notice of Appeal was filed on September 22, 2026, forty-one days after the entry of the August 11, 2026, Order granting Plaintiff’s Motion for Judgment on the Pleadings. Under these circumstances, it is appropriate that the appeal docketed to No. 26–CV–0773 be quashed. See Chongqing, 327 A.3d at 214 (“Quashal [of an appeal] is usually appropriate where the order below was unappealable, the appeal was untimely, or the Court otherwise lacked jurisdiction....” (citations and quotation marks omitted)); Williams, 106 A.3d at 587. See *a/so* Commonwealth v. Jones, 700 A.2d 423, 426 (Pa. 1997) noting that appellants bear the burden to prove the timeliness of their appeals.³

³ In addition to this jurisdictional defect, where separate cases exist with separate dockets, one notice of appeal containing both docket numbers runs afoul of Commonwealth v. Walker, 185 A.3d 969, 976 (Pa. 2018) (setting forth bright-line separate-notice-of-appeal-for-each-docket-number rule with respect to

CONCLUSION

As set forth in the procedural history above, Defendants have filed a flurry of motions after the entry of a final judgment which display a total misunderstanding of the significance of the final judgment entered pursuant to the August 11, 2026, order granting Plaintiff's Motion for Judgment on the Pleadings. That Defendants do not appear to appreciate the effect of that final order, notwithstanding the Court's repeated attempts in its orders addressing Defendants' motions that the case had concluded and there was nothing further for the Court to decide or hear, does not excuse Defendants' naïveté: by representing themselves, Defendants have assumed the risks of self-representation. See Wilkins v. Marsico, 903 A.2d 1281, 1285 (Pa.Super. 2006) (noting that "any person choosing to represent himself in a legal proceeding must, to a reasonable extent, assume that his lack of expertise and legal training will be his undoing"), appeal denied, 918 A.2d 747 (Pa. 2007). As we noted at the outset of this proceeding, Defendants have failed to

Pa.R.A.P. 341(a), which requires separate notices of appeal where there are separate "dockets" or "judgments"). An exception to Walker, not applicable here, for civil cases was found in Always Busy Consulting, LLC v. Babford & Co., Inc., 247 A.3d 1033 (Pa. 2021) where the Pennsylvania Supreme Court stated:

[F]iling a single notice of appeal from a single order entered at the lead docket number for consolidated civil matters where all record information necessary to adjudication of the appeal exists, and which involves identical parties, claims and issues, does not run afoul of Walker, Rule 341, or its Official Note.

Id. at 1043. See also Commonwealth v. Young, 265 A.3d 462, 658 (Pa. 2021) (interpreting the relationship between Pa.R.A.P. 341(a) and Pa.R.C.A. 902 and concluding that while "Rule 341 requires that when a single order resolves issues arising on more than one docket, separate notices of appeal must be filed from that order at each docket; but, where a timely appeal is erroneously filed at only one docket, Rule 902 permits the appellate court, in its discretion, to allow correction of the error, where appropriate"). Finally, we note as well as that waiver is appropriate when the appeal filed does not comply with the requirements of Pa.R.A.P. 904(a) (content of the notice of appeal), particularly where, as here, the appeal is ambiguous as to what case, or what order in that case, is being appealed.

timely appeal from a final order of the Court and are now bound by that decision.

BY THE COURT:

\s\ President Judge Roger N. Nanovic
P.J.