

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

HARKAVY MANAGEMENT
SERVICES, INC.,

Plaintiff-Appellee,

vs.

EMILY KAMHOLTZ

and

CHELSEA STEGMAN,

Defendants-Appellants.

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APPEAL NO. C-090654
TRIAL NO. 09CV-00992

JUDGMENT ENTRY.

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendants-appellants Emily Kamholtz and Chelsea Stegman leased an apartment from City Center Properties on June 4, 2008, and under the lease, plaintiff-appellee Harkavy Management acted as City Center's agent. The 14-month lease began on July 1, 2008, and expired on May 31, 1009, and Kamholtz and Stegman agreed to pay \$850 per month. The tenants failed to pay, and in January 2009, Harkavy sued for forcible entry and detainer, as well as damages. When the tenants voluntarily vacated the premises, the forcible-entry-and-detainer claim was dismissed. Harkavy later amended its complaint to allege that it was the agent for the owner of the premises and that there was a lease signed by the tenants.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Following a bench trial, a magistrate found in Harkavy's favor in the amount of \$3,310. The tenants objected to the magistrate's findings, but the trial court adopted those findings and entered judgment against the tenants. In three assignments of error, the tenants now argue that the trial court erred in denying their motion to deem admitted unanswered Civ.R. 36 requests for admissions, and that Harkavy did not have standing to bring this suit. The tenants' assignments of error are overruled, and the trial court's judgment is affirmed.

In their first assignment of error, the tenants allege that the trial court erred in denying their request to deem certain facts admitted due to the unanswered Civ.R. 36 requests.

Trial courts are generally given wide latitude in their rulings on procedural matters, and those rulings will not be disturbed on appeal absent a showing of an abuse of discretion.² In *Grogan*, we also noted that a trial court should use the rules of discovery to serve the best interests of justice.³ We hold that the trial court did not abuse its discretion in this case in denying the tenants' requests to deem facts admitted as a result of the unanswered Civ.R. 36 requests. Though Harkavy did not file its responses to discovery until after the deadline set by the tenants, they were all filed a month before trial. We also note that the court's allowance of late responses to the Civ.R. 36 requests did not prejudice the tenants. The tenants had a month before trial to prepare a strategy based on Harkavy's late responses, and the record does not reflect that their trial preparation was compromised in any way.

In their second and third assignments of error, the tenants essentially argue that Harkavy did not have standing to sue them. These assignments of error are overruled. The record reflects that Harkavy presented testimony that there was a management contract between the owner of the property and Harkavy, and that it

² *Cincinnati ex rel. Cosgrove v. Grogan* (2001), 141 Ohio App.3d 733, 753 N.E.2d 256.

³ *Id.*

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selected tenants, prepared leases, and decided who should be evicted if the rent was not paid. Harkavy presented sufficient evidence that it had standing to bring this suit, and the second and third assignments of error are accordingly overruled.

The trial court's judgment is affirmed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., HENDON and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on July 28, 2010

per order of the Court _____.

Presiding Judge