

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

DANIEL FOLEY	:	APPEAL NO. C-100799
		TRIAL NO. 10CV23709
and	:	
ALEXANDRA KIRWEN-FOLEY,	:	<i>JUDGMENT ENTRY.</i>
Plaintiffs-Appellees,	:	
vs.	:	
TIM ARNOLD d.b.a. A&C	:	
PROPERTIES,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.

In one assignment of error, Tim Arnold, d.b.a. A&C Properties, (“Arnold”) appeals the judgment of the trial court adopting a magistrate’s decision that awarded \$2000 to Daniel Foley and Alexandra Kirwen-Foley. We affirm.

We cannot reverse the trial court’s judgment absent an abuse of discretion. *Marchel v. Marchel*, 160 Ohio App.3d 240, 2005-Ohio-1499, 826 N.E.2d 887 (8th Dist.); *Wade v. Wade*, 113 Ohio App.3d 414, 419, 680 N.E.2d 1305 (11th Dist.1996); see also *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983). And upon a review of the record, we find none. The trial court correctly determined that Arnold had no right to \$2000 in “earnest money” paid to Arnold by the plaintiffs since Arnold did not

**OHIO FIRST DISTRICT COURT OF APPEALS**

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own the property that he had attempted to sell to them. *See Minster Farmers Coop Exchange Co., Inc. v. Meyer*, 117 Ohio St.3d 459, 2008-Ohio-1259, 884 N.E.2d 1056, ¶ 28.

We therefore overrule Arnold's sole assignment of error.

The trial court's judgment is affirmed.

A certified copy of this judgment entry shall constitute 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 FISCHER, JJ.**

To the clerk:

Enter upon the journal of the court on January 27, 2012

per order of the court \_\_\_\_\_.  
Presiding Judge