

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

TERRY BROWN,	:	APPEAL NO. C-110336
Plaintiff-Appellant,	:	TRIAL NO. 11CV-05050
vs.	:	<i>JUDGMENT ENTRY.</i>
DANSON INC., d.b.a. AEGIS	:	
PROTECTIVE SERVICES,	:	
Defendant-Appellee.	:	

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. 11.1.1.

Terry Brown appeals the trial court’s judgment that dismissed his complaint against Danson, Inc., (“Danson”). We conclude that his assignments of error do not have merit, so we affirm the judgment of the trial court.

Brown filed a complaint against Danson, his former employer. In his complaint, Brown sought past and future wages and punitive damages for claims that sounded in contract and employment law. When Danson filed a motion to dismiss his complaint, Brown filed a reply and requested that an oral argument be held on all pending motions. The trial court denied Brown’s request for a hearing and granted Danson’s motion to dismiss.

In his first assignment of error, Brown asserts that the trial court abused its discretion and violated his due-process rights when it refused to conduct a hearing on all pending motions and when it did not rule on his pending motions prior to dismissing his complaint. We conclude that the trial court did not abuse its discretion when it did not hold a hearing on the motions. See Civ.R. 7(B)(2); Rule

V(6) of the Hamilton County Municipal Court Rules of Civil Procedure. And although it did not expressly rule on Brown's pending motions, we may presume that the trial court overruled them when it granted Danson's motion to dismiss. See *State ex rel. Cassels v. Dayton City School Dist. Bd. of Edn.*, 69 Ohio St.3d 217, 1994-Ohio-92, 631 N.E.2d 150. The first assignment of error is overruled.

Brown's second assignment of error is that the trial court erred when it granted Danson's motion to dismiss. We review the trial court's grant of a Civ.R. 12(B)(6) motion de novo. *Perrysburg Twp. v. Rossford*, 103 Ohio St.3d 79, 2004-Ohio-4362, 814 N.E.2d 44, ¶5. We conclude that the trial court did not err when it dismissed Brown's complaint for failing to state a claim upon which relief could be granted. See Civ.R. 12(B)(6); *O'Brien v. Univ. Community Tenants Union, Inc.* (1975), 42 Ohio St.2d 242, 327 N.E.2d 753, syllabus. The second assignment of error is overruled.

Neither assignment of error has merit, so we affirm the judgment of the trial court. We conclude that Brown's appeal was frivolous under App.R. 23 and without "reasonable cause" under R.C. 2505.35, but we refrain from taxing costs and expenses against Brown.

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., SUNDERMANN and FISCHER, JJ.**

To the clerk:

Enter upon the journal of the court on December 21, 2011

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