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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3762-21**

ROBERT EDWARDS,

Plaintiff-Appellant,

v.

RENADA SMITH,

Defendant-Respondent.

Submitted October 3, 2023 – Decided October 16, 2023

Before Judges Mayer and Paganelli.

On appeal from the Superior Court of New Jersey, Law
Division, Union County, Municipal Appeal No. 6276.

Robert Edwards, appellant pro se.

Respondent has not filed a brief.

PER CURIAM

Plaintiff Robert F. Edwards appeals from a June 23, 2022 order of the Law
Division, after a trial de novo from a municipal court appeal, dismissing his

complaint against defendant Renada Smith for lack of probable cause. We affirm.

We recite the facts from the record before the Law Division judge. Plaintiff lives in an apartment building in Plainfield owned and managed by the Plainfield Housing Authority (Authority). Defendant is the Authority's assistant housing manager.

In March 2020, in response to the COVID pandemic, Governor Murphy signed an executive order directing New Jersey residents to remain home if possible (stay-at-home order). In 2021, while the stay-at-home order remained in effect, the Authority undertook to install new windows in its apartment buildings. In a September 27, 2021 letter signed by defendant on the Authority's behalf, the Authority notified plaintiff about the window installation and requested access to plaintiff's apartment "for the installation of windows on or about September 29, 2021." The letter further indicated "[a] reasonable accommodation during installation, if requested, shall be provided to you. Failure to grant access or obstruction of the installation violates your lease and shall result in litigation for possession."

On September 29, 2021, plaintiff contacted the Plainfield Police Department to report there were "workers trying to do work in his apartment"

and he did "not want them to come in." Because plaintiff contacted the police, the Authority did not install the new windows in plaintiff's apartment as scheduled.

The Authority rescheduled the installation for March 18, 2022, and sent plaintiff advanced written notice confirming the date. When the installers arrived on March 18, plaintiff again refused to allow access to his apartment. This time, the Authority contacted the police. The responding police officer suggested the parties "go to court" to resolve the dispute.

On May 6, 2022, plaintiff filed a complaint with the Plainfield municipal court.¹ Plaintiff alleged defendant's conduct constituted "harassment under [N.J.S.A.] 2C:33-4, that there was an attempt of forcible entry by deception, and affirmative misrepresentation to the Plainfield Police that he refused to open the door for repairs." He also claimed defendant violated the stay-at-home order.

In May 2022, the municipal court judge considered the matter as a citizen's complaint. As such, the municipal court judge was required to render an independent judicial finding whether there was probable cause for plaintiff to proceed on his complaint. See R. 3:3-1(b); R. 7:2-2(a)(1). The municipal court

¹ Plaintiff named only defendant in his complaint, notwithstanding that she acted in her capacity as the Authority's assistant housing manager.

judge found no probable cause in support of plaintiff's claim that defendant committed criminal harassment under N.J.S.A. 2C:33-4. Thus, the municipal court judge dismissed plaintiff's complaint for lack of probable cause.

Plaintiff then filed a municipal appeal in the Superior Court of New Jersey. The matter was scheduled before a Law Division judge for de novo review of the probable cause determination.

On June 23, 2022, plaintiff appeared before the Law Division judge. No one appeared on behalf of defendant or the Authority.

Before the Law Division judge, plaintiff argued the municipal court judge erred because plaintiff established probable cause in support of his criminal harassment claim. Plaintiff asserted defendant's conduct constituted harassment under N.J.S.A. 2C:33-4 because "[the window installation was] not essential," plaintiff "[was] duty bound to stay at home," and the window installation violated the stay-at-home order. Plaintiff explained he declined to allow the window installers in his apartment "because of the restrictions" in the Governor's executive orders. However, plaintiff conceded no one forcibly entered his apartment.

The Law Division judge found plaintiff's "complaint [wa]s utterly and completely lacking in probable cause" and "the [m]unicipal [c]ourt [j]udge

appropriately denied the filing of the complaint." After rendering his findings, the Law Division judge entered the June 23, 2022 order rejecting plaintiff's municipal appeal.

The issue on appeal is whether plaintiff's complaint established probable cause that defendant committed an offense—specifically, criminal harassment. Plaintiff asserts his complaint established probable cause and the Law Division judge therefore erred in dismissing it. We reject plaintiff's arguments.

Probable cause is defined as:

a well-grounded suspicion that a crime has been or is being committed. Probable cause exists where the facts and circumstances . . . [are] sufficient in themselves to warrant a [person] of reasonable caution in the belief that an offense has been or is being committed. The substance of all the definitions of probable cause is a reasonable ground for belief of guilt.

[State v. O'Neal, 190 N.J. 601, 612 (2007) (quoting State v. Moore, 181 N.J. 40, 45-46 (2004) (alterations in original) (citations and internal quotation marks omitted)).]

Plaintiff asserts defendant's conduct constituted criminal harassment under N.J.S.A. 2C:33-4. That statute provides:

[A] person commits a petty disorderly persons offense if, with purpose to harass another, he:

a. [m]akes, or causes to be made, [one or more] communications anonymously or at extremely

inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm;

b. [s]ubjects another to striking, kicking, shoving, or other offensive touching, or threatens to do so; or

c. [e]ngages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person

Here, the Authority's letters to plaintiff did not constitute harassment under N.J.S.A. 2C:33-4. The Authority's letters, written on Authority stationery, were signed by defendant in her official capacity as the Authority's assistant housing manager. Thus, the letters were not anonymous. The Authority's letters did not contain offensive or coarse language, nor were they transmitted at inconvenient hours. The Authority was required to notify tenants before scheduling work at its apartment buildings and did so here. While plaintiff may have personally found the Authority's letters annoying, his personal annoyance was insufficient to establish probable cause for the offense of criminal harassment.

We also reject plaintiff's claim that defendant violated the stay-at-home order. Nothing in the stay-at-home order or other COVID-related executive orders prohibited the Authority from making repairs or improvements at its

buildings. Nor did those orders mandate tenants remain in their homes during the pandemic.

The record fails to support any forcible entry by defendant or the Authority into plaintiff's apartment. When asked by the Law Division judge, plaintiff admitted he refused the window installers entry into his apartment. Thus, neither defendant, the Authority, nor the window installers entered plaintiff's apartment.

Having reviewed the record, we are satisfied plaintiff presented insufficient evidence to establish probable cause for the offense of criminal harassment and the Law Division judge properly rejected his municipal appeal.

To the extent we have not addressed any of plaintiff's remaining arguments, we conclude the arguments lack sufficient merit to warrant written discussion in a opinion. R. 2:11-(e)(2).

Affirmed.

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


CLERK OF THE APPELLATE DIVISION