

**NOT FOR PUBLICATION WITHOUT THE
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-1400-22**

**HIGHVIEW TERRACE
APARTMENTS,**

Plaintiff-Respondent,

v.

ASSEM ABULKHAIR,

Defendant-Appellant.

Argued June 4, 2024 – Decided June 19, 2024

Before Judges Mayer, Enright and Paganelli.

On appeal from the Superior Court of New Jersey, Law
Division, Passaic County, Docket No. LT-001423-20.

Assem Abulkhair, appellant pro se.

Kenneth W. Biedzynski argued the cause for
respondent (Goldzweig, Green, Eiger & Biedzynski,
LLC, attorneys; Kenneth W. Biedzynski, of counsel
and on the brief).

PER CURIAM

Defendant Assem Abulkhair appeals from a December 20, 2022 order denying his motion for reconsideration. Defendant moved for reconsideration of an October 3, 2022 order authorizing the issuance of a warrant of removal in favor of plaintiff Highview Terrace Apartments. For the reasons that follow, we affirm.

Plaintiff sought to evict defendant from his apartment unit based on defendant's refusal to allow the entry to and inspection of his apartment. Under the terms of the written lease, plaintiff had the right to enter and inspect defendant's apartment. The entry and inspection of defendant's apartment was required for the New Jersey Department of Community Affairs (DCA) to recertify plaintiff as an affordable housing, multiple dwelling provider. All of the units at plaintiff's apartment complex were inspected with the exception of defendant's apartment. Absent inspection of every unit in plaintiff's building, the apartment complex risked losing DCA accreditation.

Plaintiff filed an eviction action against defendant. The eviction matter proceeded to trial over the course of several non-consecutive dates.¹ After hearing the trial testimony, the judge concluded plaintiff's trial witnesses were more credible than defendant.

Based on the testimony and evidence adduced at trial, the judge issued a September 20, 2022 written decision. In his written decision, the judge found "defendant was properly served with notice by [plaintiff] to enter and inspect his apartment. Defendant unreasonably refused to comply with these notices. Such refusal constitute[d] a breach of substantive portions of the lease, warranting the entry of a judgment of possession in favor of plaintiff." However, the judge delayed the issuance of a warrant of removal for twenty days following

¹ Defendant did not provide transcripts of the trial proceedings for our review. Rule 2:6-1(a)(1)(I) requires parties on appeal to provide "such other parts of the record . . . as are essential to the proper consideration of the issues." Aside from failing to include the September 20, 2022 order in his notice of appeal, defendant's failure to provide an adequate record of the eviction trial proceedings precludes our review of any issues related to the trial. We are not "obli[gated] to attempt review of an issue when the relevant portions of the record are not included." Cnty. Hosp. Grp., Inc. v. Blume Goldfaden Berkowitz Donnelly Fried & Forte, P.C., 381 N.J. Super. 119, 127 (App. Div. 2005). Throughout his merits brief, defendant refers to testimony from the eviction trial. Without those transcripts, we are unable to consider defendant's arguments regarding the eviction trial.

the entry of the judgment of possession to allow defendant to file an appeal or seek a hardship stay.

After the twenty-day period expired, plaintiff obtained a warrant of removal. In issuing the October 3, 2022 warrant of removal, the judge granted defendant the maximum amount of time for a hardship stay, delaying execution of the warrant of removal until April 3, 2023.

Defendant filed a motion for reconsideration regarding the October 3, 2022 warrant of removal, and plaintiff opposed the motion. In a December 20, 2022 order with an attached statement of reasons, the judge denied defendant's motion. The judge concluded defendant merely reiterated "arguments advanced at trial without additional factual or legal support." The judge expressly incorporated his September 20, 2022 written trial decision in rejecting defendant's allegations on reconsideration as "unpersuasive."

On appeal, defendant raises multiple procedural and constitutional arguments. Many of the issues defendant asserts on appeal were not presented to the trial court.² The sole issue before this court, per defendant's notice of

² We decline to consider issues not properly presented to the trial court unless the issues are jurisdictional in nature or substantially implicate a matter of public interest. See Finderne Heights Condo. Ass'n, Inc. v. Rabinowitz, 390 N.J. Super. 154, 166 (App. Div. 2007). Defendant's arguments on appeal are neither jurisdictional nor implicate a matter of public interest.

appeal, is whether the judge erred in denying defendant's motion for reconsideration.

Although plaintiff contends defendant's appeal is moot because defendant no longer resides in the apartment, we disagree. "Ordinarily, where a tenant no longer resides in the property, an appeal challenging the propriety of an eviction is moot." Sudersan v. Royal, 386 N.J. Super. 246, 251 (App. Div. 2005). However, when the "eviction carries residual legal consequences potentially adverse to [a tenant]," such as the revocation of the tenant's federal subsidy, the matter is justiciable. Ibid.

Here, defendant's eviction has potentially adverse legal consequences. The eviction may be used against defendant if he applies for future public housing assistance through the Section 8 program.³ Because defendant resided in a public housing unit and the judgment of possession may have residual legal consequences, his appeal is not moot.

We next address defendant's argument that the judge erred in denying his motion for reconsideration. We give deference to a trial judge's denial of a reconsideration motion. Castano v. Augustine, 475 N.J. Super. 71, 78 (App.

³ The Section 8 program is a housing assistance program administered by the federal government. See 42 U.S.C. § 1437.

Div. 2023). We decline to reverse a reconsideration decision absent a clear abuse of discretion. Kornbleuth v. Westover, 241 N.J. 289, 301 (2020). "Motions for reconsideration are granted only under very narrow circumstances" Fusco v. Bd. of Educ. of Newark, 349 N.J. Super. 455, 462 (App. Div. 2002). Reconsideration of a final order "is appropriate only in 'those cases which fall into that narrow corridor in which either[:] 1) the [c]ourt has expressed its decision based upon a palpably incorrect or irrational basis[:] or 2) it is obvious that the [c]ourt either did not consider, or failed to appreciate the significance of probative, competent evidence'" Castano, 475 N.J. Super. at 78 (quoting Triffin v. SHS Grp., LLC, 466 N.J. Super. 460, 466 (App. Div. 2021)); see also R. 4:49-2.

We affirm the denial of defendant's motion for reconsideration for the reasons stated by the judge in his September 20, 2022, and December 20, 2022 written decisions. As the judge properly noted, defendant's arguments on reconsideration failed to present new facts or evidence not previously considered and rejected by the trial court. We discern no basis in the record to conclude the judge abused his discretion in denying defendant's motion.

To the extent we have not addressed any of defendant's remaining arguments, we are satisfied those arguments are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION