

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION—CIVIL

---

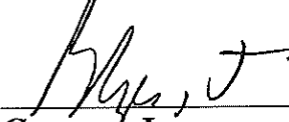
KATHLEEN DZEMAILI	:	January Term, 2020
	:	
<i>Plaintiff</i>	:	Case No. 00596
	:	
v.	:	
	:	
DANIEL SCHROTER, and	:	
REYAN SCHROTER f/k/a/ REYAN CACERES	:	
	:	
<i>Defendants</i>	:	Control No. 20020995

---

**ORDER**

AND NOW, this 11<sup>th</sup> day of May, 2020, upon consideration of the petition to strike or open confession of judgment the response of plaintiff, and the respective *memoranda* of law, it is **ORDERED** that the petition to strike is **GRANTED** and the confession of judgment is **STRICKEN**.

BY THE COURT,

  
\_\_\_\_\_  
GLAZER, J.

## OPINION

Plaintiff (“Landlord”), and Defendants (“Tenants”), entered into a “Lease Agreement” on March 1, 2017. The Lease Agreement contained a warrant-of-attorney which empowered Landlord to confess judgment against Tenants “[i]f rent and/or any charges reserved should remain unpaid on any day when the same should be paid....”<sup>1</sup> The Lease Agreement contained a provision titled “Rent,” which required Tenants to pay rent of \$2,500.00 on the first day of March of each successive years, from 2019 through 2021.<sup>2</sup>

Landlord confessed judgment against Defendants on January 8, 2020. Specifically, Landlord avers that Tenants abandoned the Property and have failed to remit any payments since October 1, 2017. Thus, Landlord seeks to recover the alleged unpaid balance of the entire lease, in the amount of \$62,500.00, plus other sums, for a total of \$71,609.16.<sup>3</sup>

Tenants have challenged the judgment by filing the instant petition to strike or open. Tenants specifically assert that the accelerated amount claimed by Landlord, \$62,500.00, is excessive because the Lease Agreement merely requires payment of yearly rent of \$2,500.00, and only two years remain until the end of the lease term. Thus, they argue that they may owe \$5,000.00 at most for the remaining two years of the lease term –that is, \$2,500.00 for the year 2020, and \$2,500.00 for the year 2021.<sup>4</sup>

---

<sup>1</sup> Lease Agreement, Exhibit A to the complaint, ¶ 18.

<sup>2</sup> Lease Agreement, Exhibit A to the complaint, ¶¶ 3(a)–3(c).

<sup>3</sup> Complaint, ¶¶ 6, 11.

<sup>4</sup> Petition to strike or open, ¶ 6.

In the response in opposition, Plaintiff avers that the accelerated amount of \$62,500.00 is proper because Tenants are required under the Lease Agreement to pay \$2,500.00 on a monthly basis, not once a year.<sup>5</sup>

The issue as framed by the petition to strike and by the response in opposition is as follows: whether the Lease Agreement required Tenants to pay rent of \$2,500.00 on a monthly or yearly basis. The “Rent” provision within the Lease Agreement states:

Each lease year of the initial term shall be as follows:

March 1, 2017—Two Thousand Five Hundred and 00/100	(\$2,500.00)
March 1, 2018—Two Thousand Five Hundred and 00/100	(\$2,500.00)
March 1, 2019—Two Thousand Five Hundred and 00/100	(\$2,500.00)
March 1, 2020—Two Thousand Five Hundred and 00/100	(\$2,500.00)
March 1, 2021—Two Thousand Five Hundred and 00/100	(\$2,500.00) <sup>6</sup>

This language clearly and unambiguously states that the lease in question had a term of five years, and rent, throughout the term of that lease, should have been paid once a year in the amount of \$2,500.00.

[t]he interpretation of any contract is a question of law.... In interpreting a contract, the ultimate goal is to ascertain and give effect to the intent of the parties as reasonably manifested by the language of their written agreement. When construing agreements involving clear and unambiguous terms, [the] Court need only examine the writing itself to give effect to the parties' understanding. [The] Court must construe the contract only as written and may not modify the plain meaning under the guise of interpretation.<sup>7</sup>

In this case, the Lease Agreement states that rent, in the amount of \$2,500.00, should have been paid to Landlord on five occasions, on the first day

---

<sup>5</sup> Response in opposition to the petition, ¶ 6.

<sup>6</sup> Lease Agreement, Exhibit A to the complaint, ¶ 3.

<sup>7</sup> Humberston v. Chevron USA, Inc., 75 A.3d 504, 509-510 (PA. Super. 2013).

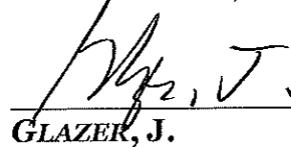
of March, for a term of five years, from 2017 through 2021. A quick computation shows that the total amount of rent for the entire term should be \$12,500.00 (that is, \$2,500.00 x 5 years = \$12,500.00). Comparing this amount to the \$62,500.00 claimed by Landlord, the court can only conclude that the record is fatally flawed because that amount is grossly excessive and requires that the judgment be stricken in its entirety:

[a] petition to strike judgment is a common-law proceeding that operates as a demurrer to the record. A petition to strike a judgment may be granted only for a fatal defect or irregularity appearing on the face of the record.... An order of the court striking a judgment annuls the original judgment and the parties are left as if no judgment had been entered.<sup>8</sup>

**A motion to strike will be granted when it appears that judgment has been entered for a grossly excessive amount.<sup>9</sup>**

For this reason, the petition to strike is granted and the judgment is stricken.

BY THE COURT,

  
\_\_\_\_\_  
GLAZER, J.

---

<sup>8</sup> Dime Bank v. Andrews, 115 A.3d 358, 364 (Pa. Super. 2015).

<sup>9</sup> Van Arkel & Moss Properties, Inc. v. Kendor, Ltd., 419 A.2d 593, 595 (PA. Super. 1980) (emphasis supplied).