

FRANKLIN COUNTY HOUSING AUTHORITY, Plaintiff
v. CHIPQUITA GEORGE, Defendant
SALLY ANN LONG, Plaintiff
v. ROBERT W. RHODES, III, et al., Defendants
Court of Common Pleas of the 39th Judicial District of Pennsylvania,
Franklin County Branch
Civil Action — Law, No. 3396 of 2009, No. 2721 of 2009

Compulsory Arbitration – Scope– Landlord/Tenant Suits for Possession

1. Subject matter jurisdiction of the compulsory arbitration program of the 39th Judicial District is controlled and expressly limited by statute.
2. When prescribed by general rule or rule of court such civil matters or issues therein as shall be specified by rule shall first be submitted to and heard by a board of three members of the bar of the court.
3. Matters involving “title to real property” or “where the amount in controversy...exceeds \$50,000” are excluded from compulsory arbitration. 42 P.S. §7361(b).
4. Pa. R.C.P. 1301 specifically provides that the Pennsylvania Rules of Civil Procedure regarding arbitration apply to actions which are submitted to compulsory arbitration pursuant to local rule.
5. Actions which require equitable or declaratory relief are not to be referred, but there would seem to be no reason why replevin actions involving the right to possession of personal property could not be referred to arbitration.
6. In response to §7361 and Pa. R.C.P. 1301, the 39th Judicial District promulgated 39th Jud. Dist. R.C.P. 1301, entitled “Compulsory Arbitration—Scope.” Under this local rule, all cases which are at issue where the amount in controversy shall be \$50,000 or less, except those involving title to real estate, shall first be submitted and heard by a Board of three (3) members of either Bar of the Judicial District for consideration and award.
7. The language of the local rule is clear and unambiguous and it encompasses all matters deemed arbitrable by the statute.
8. Suits for possession of leased property fall within the scope of the compulsory arbitration program of the 39th Judicial District.

Appearances:

Edward I. Steckel, Esquire, *Counsel for Plaintiff, Franklin County Housing Authority*

Chipquita George, *Defendant*

Thomas B. Steiger Jr., Esquire, *Counsel for Plaintiff, Sally Long*

Robert W. Rhodes III and Mary Rhodes, *Defendants*

Facts

In these two cases landlords are seeking possession of their leased properties. In the first case, Franklin County Housing Authority (hereinafter "FCHA") has sued for possession of the residential property it has leased to Chipquita George. In the second, Sally Long has sued Mr. and Mrs. Rhodes for possession of residential property Long has leased to the defendants.^[1] Both plaintiffs obtained judgments for possession in magisterial district court, and both defendants appealed. On November 5, 2009, the Court was scheduled to hold civil pre-trial conferences in both cases, and in both the Court proposed that the matters be set down for compulsory arbitration under 39th Jud. Dist. R.C.P. 1301. Counsel for Sally Long agreed that arbitration was appropriate in Long v. Rhodes. However, counsel for FCHA resisted, arguing that local arbitration panels refuse to hear possession cases since they believed the cases lay beyond the scope of arbitration and that compulsory arbitration was an inefficient use of judicial resources since George would likely appeal any adverse result. Because we think that guidance to the bar is appropriate, the Court authors this opinion in order to clarify the status of landlord-tenant possession cases with respect to the compulsory arbitration program of the 39th Judicial District.

Discussion

Subject matter jurisdiction of the compulsory arbitration program of the 39th Judicial District is controlled and expressly limited by statute. 42 P.S. §7361; Robert Half International v. Marlton Technologies, 902 A.2d 519 (Pa. Super. 2006). "When prescribed by general rule or rule of court such civil matters or issues therein as shall be specified by rule shall first be submitted to and heard by a board of three members of the bar of the court." 42 P.S. §7361(a). Matters involving "title to real property" or "where the amount in controversy...exceeds \$50,000" are excluded from compulsory arbitration. 42 P.S. §7361(b). Pa. R.C.P. 1301 specifically provides that the Pennsylvania Rules of Civil Procedure regarding arbitration "apply to actions which are *submitted to compulsory arbitration pursuant to local rule* under...the Judicial Code..." (italics added). The comment to the Rule indicates, however, that "actions which require equitable or declaratory relief are not to be referred." Explanatory Comment to Pa. R.C.P. 1301. Interestingly, the Comment further suggests that "there would seem to be no reason why replevin actions involving the right to possession of personal property could not be referred to arbitration." Id. In response to §7361 and Pa. R.C.P. 1301, the 39th Judicial District promulgated 39th Jud. Dist. R.C.P. 1301, entitled "Compulsory Arbitration—Scope." 39th Jud. Dist. R.C.P. 1301. Under this local rule, "all cases which are at issue where the amount in controversy shall be \$50,000 or less, except those involving title to real estate, shall first be submitted and heard by a Board of three (3) members of either Bar of the Judicial District for consideration and award." Id. The language of the local rule is clear and unambiguous and it encompasses all matters deemed arbitrable by the statute.

Here, monetary damages, if any, are not material to the Court's consideration. In FCHA v. George, the prayer for relief seeks possession and judgment for \$114.00 but the docket reflects that amounts in escrow have already been paid to the plaintiff. In Long v. Rhodes, in addition to possession, Plaintiff is seeking monetary damages for rent coming due and utility bills unpaid. Even so, in Long v. Rhodes, damages are not material because money damages are well beneath the \$50,000 limit. Second, in FCHA v. George, the damages sought have already been paid, as they have been released by the Prothonotary from escrow where they had been held incident to the appeal process. Accordingly, the only remaining consideration is whether suits for possession of leased real property are within the scope of compulsory arbitration.

For the reasons which follow, such suits are arbitrable. First, a suit for possession of real property does not involve title to real property, a subject that is clearly excluded by statute from compulsory arbitration. Second, although an action for possession can ultimately result in ejectment of a defendant from a residence, an action for possession is not an equitable action that must be handled by the Court of Common Pleas. Indeed, magisterial district judges routinely hear suits for possession under the Landlord and Tenant Act prior to any involvement with a court of record, the Court of Common Pleas. 68 P.S. §250.503; Pa. M.D.J. R.C.P. 501, et seq. Third, a suit for possession is closely analogous to a suit for replevin, an action that can be assigned to compulsory arbitration. Thus, the Court finds that suits for possession of leased property fall within the scope of the compulsory arbitration program of the 39th Judicial District.

Next, the Court will address the concern that referring these cases to arbitration is a waste of time and of judicial resources since any arbitration award can simply be appealed to the Court of Common Pleas. To begin, **any matter** subject to arbitration may then be appealed to Common Pleas Court^[2], so it would appear that there is nothing really special about a landlord's complaint for possession of a leasehold. Of more significance, however is that arbitration is "compulsory," a word Webster's Dictionary defines as "mandatory" or "enforced." Webster's Collegiate Dictionary (10th ed. 1997). So, compulsory arbitration is not something the parties may elect to circumvent, but, rather, a mandatory procedural step on the path toward resolution of the case. It is a litigation management strategy long used in this and in

many other Pennsylvania judicial districts. Compulsory arbitration has developed in Pennsylvania as a tool

“to combat congestion and delay in the trial calendar of a growing number of districts in the Commonwealth.

...

The 1952 amendments...authorized the common pleas courts by local rule of court for compulsory arbitration by a board of arbitrators of all civil matters where the amount in controversy was \$1,000 or less, excepting, however, actions involving title to real estate.

...

Compulsory arbitration has now been adopted to almost all of the state’s judicial districts and has proven eminently successful in expediting the trial and disposition of civil cases.”

See Introductory notes, Arbitration, Compulsory Arbitration, Explanatory Comment—1981.

Finally, it is difficult to imagine how it is a waste of judicial resources to bring to Court a matter which will — as a matter of certainty — consume the Court’s time and resources when that same matter first heard by a board of arbitrators may never make it to the Court for a trial *de novo*. Truly, some of the cases that go to compulsory arbitration will be resolved, and some will be appealed. But, a possible or even a probable appeal does not present a viable justification to avoid compulsory arbitration.

Conclusion

To sum up, suits involving landlord tenant claims for possession of leased property are subject to the compulsory arbitration program of the 39th Judicial District, as long as they do not involve title to real property or an amount in controversy in excess of \$50,000. Moreover, compulsory arbitration may not be done away with at the pleasure of the parties or under the guise of its being a waste of time and of judicial resources.

ORDER OF COURT

November 13, 2009, the Court having considered these matters brought on for civil pre-trial conferences and having reviewed the records, the arguments, and the law, it is hereby ordered that both these matters be remanded to the compulsory arbitration program of the 39th Judicial District to be heard by a panel of arbitrators. It is hereby further ordered that in both of these cases, counsel promptly shall praecipe the matters for arbitration pursuant to 39th Jud. Dist. R.C.P. 39-1302.1.

[1] The cases have not been consolidated; however, because both cases presented the Court with the issue of the application of compulsory arbitration to claims for possession, the Court will address this opinion to both cases.

[2] **(d) Appeal for trial de novo.**--Any party to a matter shall have the right to appeal for trial de novo in the court. The party who takes the appeal shall pay such amount or proportion of fees and costs and shall comply with such other procedures as shall be prescribed by general rules. In the absence of appeal the judgment entered on the award of the arbitrators shall be enforced as any other judgment of the court. For the purposes of this section and section 5571 (relating to appeals generally) an award of arbitrators constitutes an order of a tribunal.