

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CIV. CASE NO.1222/92

In the matter between:

SWAZILAND GOVERNMENT  
and  
BRILLIANCE STEWART

Applicant  
  
Respondent

C O R A M : DUNN J.  
FOR THE APPLICANT : MISS E. DUMA  
FOR THE RESPONDENT : MR P. DUNSEITH

JUDGMENT

8th April 1993

The applicant in this matter seeks an order ejecting the respondent from house no. 15 Riverside Drive, Mbabane. The respondent is employed as the Acting master of the High Court.

It is alleged that the respondent is in unlawful occupation of a Government owned flat since June 1992. It appears from the papers before me that the respondent was allocated the flat on a temporary basis pending the allocation of another flat to her. By letter dated the 19th June 1992 the respondent was advised by the Principal Secretary, Ministry of Justice, that the Ministry of labour and Public Service had allocated No.4 Paramount Flats to her and that she should vacate No.15 Riverside Drive. The respondent was advised "to hand over the keys of house No.15 Riverside Drive to Government Stores with immediate effect."

A further letter dated 17th July 1992 was addressed to the respondent advising her "to vacate the said Government quarter on or before Friday the 24th July 1992." The respondent did not comply and the office of the

/Attorney-General...

/2 ... ..

Attorney-General issued a notice on the 17th August advising the respondent to vacate the flat within 7 days of receipt of the notice.

The respondent raises two defences in resisting eviction. The first is that the quarters which were subsequently allocated to her are not adequate and suitable for allocation to the Acting Master of the High Court. There is in my view no merit in this submission as there is no evidence of any undertaking on the part of the applicant to provide accommodation as of right, to the respondent. Accommodation is provided to public servants if and when it becomes available. The allocation of quarters is made on the basis of an officer's salary grade. The flat allocated to the respondent is, according to the Ministry of labour and Public Service, for officers in the respondent's salary bracket. If the respondent has any complaints regarding the flat she should follow the procedures set out in the Government General Orders relating to her terms and conditions of service.

The second defence raised is that the respondent was not given proper and reasonable notice to vacate. The applicant concedes that none of the notices served on the respondent amounted to reasonable notice to vacate. The question of the temporary nature of the allocation is not fully dealt with in the papers before me. The respondent has now been in occupation of the flat for some 9 months. I must, in the circumstances, rule in her favour that she has not been given proper notice. Her occupation must be regarded as a monthly tenancy. The application is obliged in the circumstances to give the the respondent at least 1 calendar month's notice to vacate.

The application is, in the circumstances, dismissed. On the question of costs, the respondent has been aware of  
/the allocation...

the allocation of another flat to her for about 9 months. She has clung onto the point that the notices which were served on her during June, July and August were not proper. She did not, during this period, request adequate notice to vacate. I direct that each party pays its own costs.



B. DUNN

JUDGE