

Circuit Court for Baltimore County
Case No. C-03-CV-20-004343

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 383

September Term, 2021

MÉLANGE DAVIS

v.

PETER M. FERRARO

Kehoe,
Ripken,
Tang,

JJ.

Opinion by Kehoe, J.

Filed: April 17, 2023

* At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises out of a judgment entered by the Circuit Court for Baltimore County in a civil action for unpaid rent and other monies allegedly owed by Mélange Davis¹ to Peter M. Ferraro. The court entered a default judgment in favor of Mr. Ferraro. Ms. Davis presents four questions to us which we have reordered:

1. Did the trial court err in entering an Order of Default against Ms. Davis, despite her timely answer?
2. Did the trial court err in denying Ms. Davis’s Motion to Vacate Default?
3. Did the trial court err in striking Ms. Davis’s Answer to the Complaint?
4. Did the trial court err in granting a default judgment to Mr. Ferraro?

The resolution of the first question is dispositive. We hold that a document filed by Ms. Davis on January 13, 2021, constituted an answer to Mr. Ferraro’s complaint for the purposes of Md. Rule 2-323. Moreover, Ms. Davis’s answer was timely filed. The circuit court’s entry of an order of default was in error. Because the order of default should not have been granted in the first place, the circuit court erred when it denied Ms. Davis’s motion to vacate that order. The court also erred when it struck Ms. Davis’s answer. Finally, because Ms. Davis was not, and never had been, in default, the court erred when it entered the judgment against her.

¹ Ms. Davis was sometimes referred to as “Mélange Scott” in the proceedings before the circuit court. Neither party suggests that this is significant.

BACKGROUND

Mr. Ferraro (as landlord) and Ms. Davis (as tenant) entered into a residential lease agreement on or about March 16, 2015. Around May of 2020, Ms. Davis allegedly defaulted under the lease agreement by failing to pay rent and other expenses and causing property damage to the leasehold premises. On December 4, 2020, Mr. Ferraro filed a complaint against Ms. Davis in the Circuit Court for Baltimore County. In an exhibit to his complaint, Mr. Ferraro asserted that Ms. Davis owed him \$11,812.74 in unpaid rent and an unpaid water bill, as well as \$6,534.25 for damages to the leasehold premises caused by her. Additionally, the complaint sought an award of “reasonable attorney’s fees” in an unspecified amount.

On December 20, 2020, copies of the summons, the complaint and related documents were served on Ms. Davis.

On January 6, 2021, Ms. Davis filed a document titled “Late Defense,” which was clearly intended by her to be an answer to the complaint.² In this document, she asserted that her lease had expired “as of March 2016” and that she “disagree[d] with [the] alleged property damage claim.” The “Late Defense” title notwithstanding, this document was filed within thirty days of the date that Mr. Ferraro’s complaint was served on her.

² An image of this document can be found in the appendix to this opinion.

However, Ms. Davis' filing did not include a certificate of service as required by Md. Rule 1-323, and the clerk's office properly rejected it.

On January 13, 2021, Ms. Davis filed another document, also titled "Late Defense," which was identical to the document filed on January 6th, except that it included a certificate of service. This document was docketed as a "Miscellaneous Document" and was characterized by the clerk as a "Late Defense."

On February 3, 2021, Mr. Ferraro requested the court to enter an order of default against Ms. Davis for failure to file an answer or otherwise respond to the complaint. On February 4, 2021, the court granted the motion and entered a notice of entry of a default order. On March 2nd, Ms. Davis filed a motion to vacate the order of default which stated "I filed 'late defense' paper which was not the correct paperwork that I received from the courthouse However, I was unaware of [that] at the time." On the same day, she filed an answer to Mr. Ferraro's complaint.

On March 11th, Mr. Ferraro filed a response to Ms. Davis's motion to vacate and moved to strike her February 4th answer. On March 23, 2021, the circuit court denied Ms. Davis's motion to vacate the default order stating that:

facts demonstrating both excusable neglect and that there is a substantial and sufficient basis to set aside the order of default are required to be submitted under affidavit. See Rule 2-613 and Rule 2-311(d). The court observes that [Ms. Davis] could well benefit from the assistance of competent legal counsel.

The court also struck the February 4th answer.

On the following day, Mr. Ferraro filed a motion for a default judgment along with fifteen exhibits. The court granted both motions on April 18, 2021. A judgment of default was entered against Ms. Davis on April 19, 2021.

THE STANDARD OF REVIEW

Trial courts have broad discretion to determine whether to grant or deny a motion to vacate an order of default. *Attorney Grievance Comm'n of Maryland v. Ward*, 394 Md. 1, 20 (2006); *Attorney Grievance Comm'n v. Alston*, 428 Md. 650, 673 (2012). However, we exercise *de novo* review over a trial court's legal ruling, even if the ruling is made in the context of a discretionary decision. *See Neustadter v. Holy Cross Hosp. of Silver Spring, Inc.*, 418 Md. 231, 242 (2011) (observing that, even when making a discretionary ruling, a court must apply the "proper legal standards" (quoting *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 436 (2007))).

ANALYSIS

Md. Rule 2-613(b) states "if the time for pleading has expired and a defendant has failed to plead as provided by these rules, the court, on written request of the plaintiff, shall enter an order of default." Ms. Davis was served with the complaint on December 20, 2020. She had until January 19, 2021, to file an answer. On January 13, 2021, Ms. Davis filed her "Late Defense" paperwork which was categorized by the clerk's office as a "miscellaneous document."

Ms. Davis asserts that her document titled “Late Defense” constituted an answer for the purposes of the Maryland Rules. She concedes that the clerk did not err in refusing to accept her “Late Defense” filed on January 6, 2021, because she did not include certification of service. However, she argues that she remedied that problem and filed the corrected document on January 13, 2021, which was inarguably within 30 days of the date that she had been served with the summons and the complaint. Thus, reasons Ms. Davis, her answer was timely filed, and the circuit court erred by issuing an order of default.

Mr. Ferraro disagrees with this contention. It is his position that Ms. Davis’ filing on January 13th cannot be considered a proper answer or responsive pleading because the document was classified as a “miscellaneous document” and had been previously rejected by the clerk. He argues that Ms. Davis did not file an answer until March 2, 2021, which was indisputably beyond the deadline for filing an answer. Therefore, he asserts, that the court did not err in entering an order of default, nor in eventually granting a default judgment in his favor.

Mr. Ferraro points to the fact that, in the docket entries, the clerk of the court characterized Ms. Davis’ January 13th filing as “Miscellaneous Document” with a comment that it was a “Late Defense.” Therefore, he asserts, it was reasonable “for [him] and the Court to determine that a proper paper or pleading had not been filed.”

We disagree. In this era of electronic filing and case management, the scope of a clerk’s responsibilities to review filings is set out in Md. Rule 20-203. Among other

things, the clerk is obligated to make sure that documents that are filed have proper certificates of service. *See* Md. Rule 20-203(g). If they do not, then the clerk is obligated to strike them. Rule 20-303(c). It is not, and never has been, the role of the clerk to review documents for legal sufficiency. Legal sufficiency is a matter for the parties to raise and for the court ultimately to decide. We now turn to that issue.

We will start with some of the basics. Md. Rule 1-201(a) provides that the Maryland Rules “shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay.” An answer to a complaint in a civil action is a “pleading” for purposes of the Maryland Rules. Md. Rule 2-302. Md. Rule 2-303(a) provides that answers, like other pleadings, shall contain “averment[s]” that are “simple, concise, and direct” and that “[n]o technical forms of pleadings shall be required.” In an answer, a defendant is required to “admit or deny the averments upon which the adverse party relies.” Finally, “[a]ll pleadings shall be so construed as to do substantial justice.” Md. Rule 2-303(e).

“It is well established in Maryland law that a court is to treat a paper filed by a party according to its substance, and not by its label.” *Corapcioglu v. Roosevelt*, 170 Md. App. 572, 590 (2006); *see also Att’y Grievance Comm’n of Md. v. Malone*, 477 Md. 225, 271 n.16 (2022) (“[T]he nature of a filing is determined by its substance, rather than its caption.”); *Alitalia Linee Aeree Italiane v. Tornillo*, 320 Md. 192, 195 (1990) (“Ordinarily, ‘magic words’ are not essential to successful pleading in Maryland. Courts

and administrative agencies are expected to look at the substance of the allegations before them, not merely at labels or conclusory averments.”).

Mr. Ferraro’s complaint contains one count for breach of contract in which he claims Ms. Davis failed to pay rent, late charges, utility bills, and caused property damage. When, as in the present case, the action is for breach of contract and the claim for relief is money only, a party may answer that count by a general denial of liability. Md. Rule 2-323(d). As we read Ms. Davis’s answer, she conceded she owes some back rent, but also asserted that she vacated the property on or about May 1, 2020. We take this to be a denial of liability of claims for rent after that date. Further, she stated that she “disagree[d] with [the] alleged property damage claim.” This is a clear denial of liability for damages arising out of the damage to the leasehold premises. Therefore, the order of default and all of the subsequent relief granted to Mr. Ferraro was granted in error.

We reverse the judgment of the circuit court and remand this case for further proceedings consistent with this opinion.

THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY IS REVERSED AND THIS CASE IS REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. APPELLEE TO PAY COSTS.

Appendix

LATE DEFENSE

Name: Melange Scott Today's Date: 12-29-2020

Case # C-03-CV-20-004343

Please complete all areas of this form including your name, address with zip code, and telephone number, if available.

Please check one:

Plaintiff

Defendant

Attorney for the Plaintiff

Attorney for the Defendant

NOTICE OF INTENTION TO DEFEND

Defendant: Melange S. Scott

Case # C-03-CV-20-004343
Complaint #

Notice: If you contest the claim or any part thereof you must complete this Notice of Intention to Defend and file with the court listed at the top of this summons no later than 15 days after you receive this Summons and be present in court on the trial date. If you do not appear judgment by default or the relief sought may be granted.

A corporation may enter an appearance only by an attorney except that an officer of the corporation may appear on its behalf if the action is based on a claim that does not exceed \$5,000.00.

Any reasonable accommodation for persons with disabilities should be requested by contacting the court prior to trial.

Possession and use of cell phones and other electronic devices may be limited or prohibited in designated areas of the court facility.

SEE ATTACHED NOTICE FOR IMPORTANT INFORMATION

I intend to be present at the trial of this claim and demand proof of the Plaintiff's claim.

Explanation of defense: least expired as of March 20th, Plaintiff made aware of issue via text more than 70 days prior to move; I never received plaintiffs prior paperwork in exhibit B; I disagree with alleged 12/29/2020. Melange Scott (410) 366-9801 Property Damage
3819 Proctor Lane, Methuen MA 01844-2316 (410) 366-9801 mobile Home Phone: Claim

Fix number e-Mail Address

Check this box if this is a new address.

E16

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CIRCUIT COURT FOR Baltimore, MARYLAND
Located at: 401 Bosley Ave, Towson MD Case No. C-03-CV-26-004343
Plaintiff: Peter Ferraro vs. Defendant: Melvin Davis
Address: 3204 Glendale Ave Address: 3819 Procter Lane
City, State, Zip: Baltimore, MD 21234 City, State, Zip: Nottingham MD 21236

CERTIFICATE OF SERVICE

I certify that on this 13th day of January, 2021, a copy of the document(s) titled Notice of intention to defend / Late Defense (1/13/21) of document(s) _____ was/were mailed, postage prepaid hand delivered, to:

<u>Pete Ferraro</u> Name	<u>3204 Glendale Ave</u> Address
_____	<u>Baltimore, MD 21234</u> City, State, Zip
_____	_____
<u>01-13-2021</u> Date	<u>[Signature]</u> Signature of Party Serving

CC-DK-058 (Rev. 06/2019)

FILED JAN 13 2021

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