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Court of Appeals Case No. 243737

**SUPREME COURT OF THE
STATE OF WASHINGTON**

ED L. CHRISTENSEN, Appellant,

v.

RICHARD A. ELLSWORTH, Respondent.

PETITION FOR REVIEW

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IDENTITY OF PETITIONER

Petitioner, Ed L. Christensen, respectfully requests that the Supreme Court of the State of Washington accept review of the Court of Appeals decision filed on July 25, 2006. The Supreme Court should grant review because the decision of the Court of Appeals is in conflict with decisions of the Supreme Court and the issues are of substantial public interest that should be determined by the Court.

COURT OF APPEALS DECISION

The Court of Appeals applied CR 6 to RCW 59.12.030(3), ruling that the three-day statutory notice, which precedes filing of an unlawful detainer action, must be calculated to exclude weekend days, and court holidays. Accordingly, the Court of Appeals affirmed the Superior Court's decision that it lacked subject matter jurisdiction to issue a default judgment because the landlord failed to comply with the notice requirement under RCW 59.12.030(3).

ISSUES PRESENTED FOR REVIEW

Does CR 6 apply to the three-day time periods set forth in RCW 59.12.030 or do the three-day periods refer to calendar days?

STATEMENT OF THE CASE

On July 3, 1998, Mr. Christensen served a "Notice to Pay Rent or Vacate" on his tenant Richard Ellsworth ("Mr. Ellsworth"). See Opinion

of the Court of Appeals, Division III, July 25, 2006 at 2 (cited hereafter as “Opinion” and attached as Appendix A). Mr. Ellsworth did not pay rent or vacate. On July 8, 1998, Mr. Christensen served a “Summons” and “Unlawful Detainer & Order to Show Cause” on Mr. Ellsworth. Id.

Mr. Ellsworth failed to appear, answer, or defend and on July 17, 1998, the Superior Court of Whitman County entered a Writ of Restitution and Order for Default. Id. On July 18, 1998, the Whitman County Sheriff served the Court’s Writ of Restitution and Notice to Vacate. On July 23, 1998, Mr. Ellsworth was forcibly evicted.

On December 29, 2004, Mr. Christensen filed a Motion for Default Judgment. Id. Mr. Ellsworth filed a Motion to Set Aside Order of Default and an Answer, Defenses and Counterclaim. Id. On April 22, 2005, Mr. Christensen filed a Motion for an Order to Strike Defendant’s Answer and Counterclaims. Id. Hearing on these matters was held on May 24, 2005. On June 8, 2005, the Superior Court granted Mr. Christensen’s motion to strike Mr. Ellsworth’s answer and counterclaims and denied his motion to set aside default. However, the Court allowed Mr. Ellsworth an opportunity to challenge Mr. Christensen’s Default Order. Id.

On June 10, 2005, Mr. Ellsworth moved to vacate the default and on June 13, 2005 Mr. Christensen responded. These matters were heard on June 15, 2005. On June 22, 2005 the Court dismissed Mr.

Christensen's motion for default judgment. It applied CR6(a) to the notice provision of RCW 59.12.030(3) and 59.12.040 and ruled that Mr.

Christensen's "suit was commenced before the expiration of the 4 days allowed on a notice to pay rent or vacate" and therefore the Court lacked subject matter jurisdiction. Id.

Mr. Christensen timely appealed. The Court of Appeals decided the matter without oral argument and issued its Opinion on July 25, 2006.

ARGUMENT

1. THE APPELLATE COURT'S APPLICATION OF CR 6 TO THE CALCULATION OF THE NOTICE PROVISION OF RCW 59.12.030(3) IS CONTRARY TO SUPREME COURT CASE LAW.

RCW 59.12.030(3) does not specify whether the three-day notice provision means three business days, or court days, or calendar days. See Opinion at 4, citing Canterwood Place v. Thande, 106 Wash.App. 844, 848-50, 25 P.3d 495 (2001). Because RCW 59.12.030 does not provide a method for calculating days, the Court of Appeals erroneously concluded that it is "'incomplete' and should be resolved with reference to CR 6.

Opinion at 5 (applying RCW 59.12.180), citing Canterwood at 849.

Canterwood correctly applied CR 6 to the calculation of time for the response to an unlawful detainer summons because a summons initiates a civil action and CR 6 applies to all civil actions. RCW 59.12.030 does not initiate a civil action. See Housing Authority of the

City of Everett v. Terry, 114 Wash.2d 558, 564-65, 789 P.2d 745

(1990)(proper notice under RCW 59.12.030 is a “jurisdictional condition precedent” for an action in Superior Court). Because the notice provision pursuant to RCW 59.12.030 is preliminary to the initiation of a civil action, CR 6 does not apply.

The application of CR 6 by the Court of Appeals, based on Canterwood, is contrary to this Court’s decision in Spokane Research & Defense Fund v. City of Spokane, 155 Wash.2d 89, 117 P.3d 1117 (2005). In Spokane Research & Defense Fund this Court acknowledged that “[w]hen a statute is silent on a particular issue, the civil rules govern the procedure” Id. at 105 citing King County Water District v. City of Renton, 88 Wash.App. 214, 227, 944 P.2d 1067 (1997). “The civil rules ‘govern the procedure in the superior court in all suits of a civil nature . . . with the exceptions stated in rule 81.’” Id. at 104, quoting CR 1. “CR 81 states the civil rules govern [] all civil proceedings ‘except where inconsistent with rules or statutes applicable to special proceedings.’” Id., quoting CR 81. Unlawful detainer is among the “special proceedings” defined under CR 81. Id., citing Canterwood.

The Appellate Court’s decision is also contrary to Wooding v. Sawyer, 38 Wash.2d 381; 229 P.2d 535 (1951). In Wooding, a 3-day notice was served in person on Saturday, April 9, 1949. The Court held

that the tenant “clearly, from April 13th until the end of that month” wrongfully withheld possession of the premises. *Id.* at 387-88 (decision based on interpretation of Rem. Rev. Stat., § 812 (3)). The Court counted three calendar days, Sunday, Monday, and Tuesday, finding the tenant unlawfully remained in possession of the property on the fourth calendar day, April 13, 1949. *Id.*

Thus, the Appellate Court’s application of CR 6 to RCW 59.12.030(3) is contrary to Supreme Court precedent. Mr. Christensen respectfully requests that this Court grant review to resolve the inconsistency between the decision of the Court of Appeals and the Supreme Court.

2. THE APPELLATE COURT’S INTERPRETATION OF RCW 59.12.030 AND THE APPLICATION OF CR 6 IS CONTRARY TO THE PLAIN TERMS OF RCW 59.12.030.

The Appellate Court’s application of CR 6 to RCW 59.12.030(3) is contrary to the plain terms of the statute. See Department of Ecology v. Campbell & Gwinn, L.L.C., 146 Wash.2d 1, 9-10, 43 P.3d 4 (2002)(“[I]f the statute’s meaning is plain on its face, then the court must give effect to that plain meaning as an expression of legislative intent.”)(citations omitted). “A statutory term that is left undefined should be given its ‘usual and ordinary meaning and courts may not read into a statute a meaning that is not there.’” Burton v. Lehman, 153 Wash.2d 416, 422-23,

103 P.3d 1230 (2005)(citations omitted). Common meaning may be derived from a term's dictionary definition. Id. at 423 ("If the undefined statutory term is not technical, the court may refer to the dictionary to establish the meaning of the word.")(citations omitted). The dictionary definition of "day" is "calendar day." Troxell v. The Rainier Public School District, No. 307, 154 Wash.2d 345, 357, 111 P.3d 1173 (2005)(referring to Webster's Third New International Dictionary of the English Language for the definition of "day," as "calendar day.").

Thus, contrary to the Appellate Court's decision, without a statutory definition of the term "day" and without a specific method of calculating "three days," principles of statutory interpretation require that the term "day" should be defined as calendar day which includes weekend days and holidays.

Applying CR 6 to the notice requirements of RCW 59.12.030 is also contrary to the legislative intent to provide a speedy remedy for landlords in unlawful detainer proceedings. This legislative intent is made clear in Smith v. Seattle Camp No. 69, 57 Wash. 556, 107 P. 372 (1910). In Smith, the landlord had posted and mailed a three-day notice on Saturday, January 2, 1909. The tenant did not receive the notice in the mail until Monday, January 4, 1909. The court held that since the notice was not received in the mail until January 4, the three-day period for

compliance did not begin to run until that date. In response to that decision, the legislature amended what is now RCW 59.12.040 in 2 ways. First the legislature provided that service by mail is completed when the notice is deposited in the mail. Second, the legislature provided that when service is made by mail, only one additional day will be allowed before commencement of an action based on the notice. Significantly, the legislature even added an emergency clause to the legislation so that it would take effect immediately. (1911 Ch. 26). The legislature was clearly concerned about the loss of even one day and responded immediately to the Smith decision.

3. THE APPELLATE COURT’S DECISION SEEMS TO HAVE BEEN LIMITED BY THE INADVERTENT OMISSION OF THE SUMMONS.

The Appellate Court’s decision was, to some extent, circumscribed by the inadvertent omission of a Summons from the record on appeal. See Opinion at 4 (“the record does not contain the summons required under RCW 59.12.070. . . . because no summons is part of the record, we cannot tell if any summons that may have been issued in this case complied with the content requirements of RCW 59.12.080”); at 6 (“Without a summons to review, Mr. Christensen’s burden to show jurisdiction is quite problematic for him.”); at 7 (“[O]ur record does not contain the summons used in this case. . . . Considering our record, when CR 6(a) is applied to

RCW 59.12.030(3), Mr. Christensen failed to persuade us he has satisfied the four-day statutory waiting period before filing the unlawful detainer action.”).

The RCW 59.12.070 Summons was omitted from the record inadvertently. See Petitioner’s Motion to Augment the Record filed simultaneously with this Petition for Review (cited hereafter as “Summons” attached as Appendix B). The fact that an RCW 59.12.070 Summons was filed in accordance with the requirements of RCW 59.12.080 is clear from the Superior Court record. As the Court of Appeals noted, Mr. Christensen served and filed an unlawful detainer action on July 8, 1998. See Opinion at 2. Ten days later, on July 18, the Superior Court entered a writ of restitution and order for default in favor of Mr. Christensen. Id. A summons had to have been in the Superior Court record because a summons is necessary for the Superior Court’s jurisdiction. Id. at 7 (“the statutory requirements for the summons must be fulfilled for the court to acquire subject matter jurisdiction”); see also Seattle Seahawks v. King County, 128 Wash.2d 915, 917, 913 P.2d 375 (1996)(“a civil action is commenced by filing or by service of the summons and complaint”), citing CR 3; RCW 4.28.020. Without a summons, the Superior Court could not have restored Mr. Christensen’s property to him and could not have ordered default.

Further, the summons in the Superior Court's record was an RCW 59.12.070 summons in accordance with the requirements of RCW 59.12.080. This is made clear by the fact that the Superior Court restored Mr. Christensen's property to him and declared the Defendant in default ten days after Mr. Christensen served and filed his unlawful detainer action. See Opinion at 4. Only an RCW 59.12.070 summons for unlawful detainer would have allowed the Superior Court to rule as it did within ten days of service.

Thus, the inadvertent omission of the summons should not preclude this Court's review because the requirements of RCW 59.12.070 and RCW 59.12.080 were fulfilled.

4. THE SUPREME COURT SHOULD REVIEW THE APPELLATE COURT'S DECISION BECAUSE A DETERMINATIVE RECONCILIATION BETWEEN RCW 59.12.030 AND CR 6 IS OF SUBSTANTIAL PUBLIC INTEREST.

The principle question before the Appellate Court was whether the three-day notice provision under RCW 59.12.030(3) includes weekend days and holidays or whether these should be excluded in accordance with CR 6. The Appellate Court's decision is the first to expressly address this question.

The reconciliation of the inconsistency between RCW 59.12.030(3) and CR 6 is of utmost importance to the tens-of-thousands of Washington landlords who are routinely involved in unlawful detainer

actions as an essential part of their business. Because strict statutory compliance with RCW 59.12.030 is a jurisdictional prerequisite for unlawful detainer actions, every Washington landlord must understand clearly the method of counting the three-day notice under RCW 59.12.030(3). See Sowers v. Lewis, 49 Wash.2d 891, 895 (1957)(acknowledging that the three-day notice and the service of the summons and complaint are jurisdictional requirements of the statute). Simply put, as the law exists presently, a landlord does not know whether an unlawful detainer notice served on a Friday is effective on the following Monday or whether he or she must wait until Wednesday. Landlords encounter this uncertainty in Washington law on a daily basis. Because a definitive ruling on the method of calculating days under RCW 59.12.030 is of substantial public interest, the Supreme Court should review the decision of the Court of Appeals.

CONCLUSION

The Appellate Court's decision leaves unresolved the method of calculating the three-day notice provision of RCW 59.12.030(3). The Appellate Court's application of CR 6 to the calculation of the three-day notice provision of RCW 59.12.030(3) is contrary to Supreme Court case law. The Appellate Court's reading of RCW 59.12.030(3) is also contrary to fundamental principles of statutory construction. A definitive ruling on

the calculation of days under RCW 59.12.030(3) is important for the transaction of business by the tens-of-thousands of landlords and tenants who seek a clear understanding of their rights under the unlawful detainer statute. For these reasons, the Supreme Court should review the decision of the Court of Appeals.

DATED this 23rd day of August, 2006

MABBUTT & MUMFORD, ATTORNEYS

MARK MUMFORD
Mark Mumford,
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I certify that on this 23rd day of August, 2006, I caused a true and correct copy of this document to be conveyed to Howard M. Neil, Aitken, Schauble, Patrick, Neill, Ruff & Shirley, PO Box 307, Pullman, WA 99163, by first class United States mail, postage paid.

MARK MUMFORD
Mark Mumford

APPENDIX A:
OPINION OF THE COURT OF APPEALS, JULY 25, 2006.

FILED

JUL 25 2006

In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

ED L. CHRISTENSEN,)	No. 24373-7-III
)	
Appellant,)	
)	Division Three
v.)	
)	
RICHARD A. ELLSWORTH,)	PUBLISHED OPINION
)	
Respondent.)	

BROWN, J.—In 1998, Ed Christiansen, pro se, obtained a default order and a writ of restitution in an unlawful detainer action against Richard Ellsworth. In 2004, Mr. Christiansen, still pro se, moved for a default judgment. Mr. Ellsworth moved to dismiss the default order for lack of subject matter jurisdiction under RCW 59.12.030(3). Mr. Christiansen obtained counsel to resist Mr. Ellsworth’s motion. Agreeing with Mr. Ellsworth, the trial court reasoned CR 6(a) applied to RCW 59.12.030(3), and Mr. Christiansen failed to follow the statutory wait time. Mr. Christiansen appealed the dismissal. Property possession is undisputed leaving solely damage claims. Because our record is insufficient to invoke subject matter jurisdiction under *Canterwood Place v. Thande*, 106 Wn. App. 844, 848, 25 P.3d 495 (2001), we affirm.

FACTS

On Friday, July 3, 1998, Ed Christiansen served his tenant, Richard Ellsworth, with a "Notice to Pay Rent or Vacate" within four days by registered and standard mail and posting. Clerk's Papers (CP) at 3. According to the notice, Mr. Ellsworth owed Mr. Christiansen \$500 for late rent. On Wednesday, July 8, Mr. Christiansen served and filed an unlawful detainer action. Mr. Ellsworth failed to appear or answer. On July 18, the Whitman County Superior Court entered a writ of restitution and order for default, restoring immediate possession of the property to Mr. Christiansen.

On December 29, 2004, Mr. Christiansen filed a motion for default judgment, based on the 1998 default order. Mr. Ellsworth answered and filed a motion to set aside the order of default under CR 55(c), claiming personal extenuating circumstances prevented him from appearing in the original unlawful detainer action. After a hearing, the court denied Mr. Ellsworth's CR 55(c) motion, but ruled he could challenge the court's jurisdiction to enter the default order.

The court granted Mr. Ellsworth's subsequent motion to dismiss under CR 60. It applied CR 6(a) to the four-day wait time under RCW 59.12.030(3) and .040, excluded the two weekend days, and found, "the suit was commenced before the expiration of 4 days allowed on a notice to pay rent or vacate served by posting a mailing (RCW 59.12.040) and therefore the Court lacked subject matter jurisdiction." CP at 64. Mr. Christiansen appealed.

ANALYSIS

The issue is whether the trial court erred in treating Mr. Ellsworth's motion to vacate the default judgment as a motion to dismiss for lack of subject matter jurisdiction and deciding as a matter of law that suit was commenced outside the time limits provided in RCW 59.12.040. Mr. Christiansen contends he properly complied with the three-day wait time under RCW 59.12.030(3) notwithstanding the time computation requirements of CR 6(a). We disagree with Mr. Christiansen.

Statutory interpretation is a question of law we review de novo. *Dep't of Labor & Indus. v. Gongyin*, 154 Wn.2d 38, 44, 109 P.3d 816 (2005). The unlawful detainer statute derogates the common law, so we must strictly construe it favoring the tenant. *Hous. Auth. v. Terry*, 114 Wn.2d 558, 563, 789 P.2d 745 (1990). Our prime construction objective is to "carry out the legislature's intent." *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002). To discern legislative intent, we look to the statute as a whole. *The Quadrant Corp. v. Growth Mgmt. Hearings Bd.*, 154 Wn.2d 224, 239, 110 P.3d 1132 (2005). Further, we must harmonize statutes and rules to give effect to both. *State v. Ryan*, 103 Wn.2d 165, 278, 691 P.2d 197 (1984).

A tenant unlawfully detains property "when he or she continues in possession . . . after notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises . . . [and the request] has remained uncomplied with for the period of three days after service thereof." RCW 59.12.030(3). The statute requires one additional day if service is made by mail. See RCW 59.12.040.

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Christiansen v. Ellsworth

Procedural statutory compliance is a jurisdictional prerequisite. *Sowers v. Lewis*, 49 Wn.2d 891, 894, 307 P.2d 1064 (1957) (citing *Little v. Catania*, 48 Wn.2d 890, 297 P.2d 255 (1956)).

Here, Mr. Christiansen mailed and posted the notice to pay rent or vacate on Friday, July 3. He filed and served the summons and unlawful detainer and order to show cause on Wednesday, July 8. This notice complies with a plain reading of RCW 59.12.030(3). However, the record does not contain the summons required under RCW 59.12.070 setting a return day not less than 6 nor more than 12 days after the date of service. Further, because no summons is part of this record, we cannot tell if any summons that may have been issued in this case complied with the content requirements of RCW 59.12.080.

Moreover, RCW 59.12.030(3) appears not to contain a complete rule for calculating the specified deadlines, requiring us to read it in conjunction with the statute as a whole. RCW 59.12.030(3) does not indicate whether the “three days” are business days, court days, or calendar days. See *Canterwood Place*, 106 Wn. App. at 848. Instead, chapter 59.12 RCW defers to the civil rules to provide the rules of practice: “[T]he provisions of the laws of this state with reference to practice in civil actions are applicable to, and constitute the rules of practice in the proceedings mentioned in this chapter.” RCW 59.12.180.

Thus, Mr. Ellsworth argues, the three-day time period under RCW 59.12.030(3) must be calculated with reference to CR 6(a):

In computing any period of time prescribed or allowed by these rules, by the local rules of any superior court, by order of the court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. . . . *When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.*

CR 6(a) (emphasis added).

In support of this argument, Mr. Ellsworth cites *Canterwood Place* where Division One of this court found CR 6 applied to the computation of time for the return date on an unlawful detainer summons issued under RCW 59.12.070. *Canterwood Place*, 106 Wn. App. at 848-50. The *Canterwood Place* court determined because RCW 59.12.070 did not provide a method for calculating days, it was “incomplete” and should be resolved with reference to CR 6. *Id.* at 849 (“Application of Civil Rule 6 as the method of computing time gives effect to both Civil Rule 6 and the statutory service window.”).

Mr. Christiansen argues the civil rules do not apply to the computation of time under RCW 59.12.030(3) because merely giving notice to pay rent or vacate does not constitute a civil action. However, his argument is off-point because possession is no longer in issue. Our focus is whether we have subject matter jurisdiction over the remaining civil damage issues raised in this special proceeding. Possession issues are typically summarily determined in short order, but civil damage is normally determined

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Christiansen v. Ellsworth

later and separately under a single statutory summons. Without a summons to review, Mr. Christiansen's burden to show jurisdiction is quite problematic for him.

Nevertheless, the civil rules govern "the procedure in the superior court in *all suits of a civil nature* whether cognizable as cases at law or in equity with the exceptions stated in rule 81." CR 1 (emphasis added). A civil action is commenced by service of a copy of a summons and complaint or by filing a complaint. CR 4. Here, Mr. Christiansen had not formally initiated an action under the civil rules.

The Washington State Supreme Court has decided CR 6(a) is applicable to the statutory time limitations in effect prior to the commencement of a civil action. See *Stikes Woods Neighborhood Ass'n v. City of Lacey*, 124 Wn.2d 459, 465, 880 P.2d 25 (1994) (recognizing, "[m]any civil rules affect litigant behavior prior to the formal commencement of an action"). In *Stikes*, the Court held CR 6(a) superceded the statutory time period for filing an appeal under the State Environmental Policy Act of 1971 (RCW 58.17.180). *Id.* The Court excluded Saturdays from the computation of time under the statute under CR 6(a), and reasoned a court's time computation is a purely procedural aspect of a statute of limitations. *Id.* at 465-66.

Mr. Christiansen next argues applying CR 6(a) to RCW 59.12.030(3) frustrates the goal of a peaceful resolution to these types of actions under chapter 59.12 RCW. See *Josephinium Assocs. v. Kahli*, 111 Wn. App. 617, 624, 45 P.3d 627 (2002). However, we must balance this goal against the need to provide a "minimal level of protection" for tenants "[a]pplying the Civil Rule 6 method of computation of time when calculating a tenant's response period is sound public policy." *Canterwood Place*, 106

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Wn. App. at 849. “[L]itigants are entitled to know that a matter as basic as time computation will be carried out in an easy, clear, and consistent manner, thereby eliminating traps for the unwary who seek to assert or defend their rights.” *Stikes Woods Neighborhood Ass’n*, 124 Wn.2d at 463 (quoting *McMillon v. Budget Plan of Va.*, 510 F. Supp. 17, 19 (E.D. Va. 1980)). “Courts have a vital interest in maintaining control over the administrative functioning of the litigation process, and computation of time is a fundamental element of that administration. Consistent application of Civil Rule 6 will also lend predictability to the law.” *See Canterwood Place*, 106 Wn. App. at 849-50.

Failing to apply CR 6(a) to the time computation in RCW 59.12.030(3) has the practical effect of leaving tenants who receive personal service on a Friday, one business or court day to cure a defect or consult counsel. And, a two-day delay for excluding weekends has little prejudicial effect on a landlord. Three-day holiday weekends present an even more difficult problem. Further, “[s]uch a construction is particularly appropriate given that the court must strictly construe the unlawful detainer action in favor of the tenant.” *See id.* at 849.

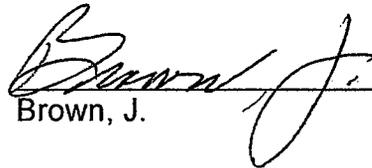
While our record does not contain the summons used in this case, the statutory requirements for the summons must be fulfilled for the court to acquire subject matter jurisdiction. Considering our record, when CR 6(a) is applied to RCW 59.12.030(3), Mr. Christiansen failed to persuade us he has satisfied the four-day statutory waiting period before filing the unlawful detainer action. *See* RCW 59.12.030(3), .040.; CR 6(a). Accordingly, we agree with the trial court’s conclusion that it lacked subject matter

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Christiansen v. Ellsworth

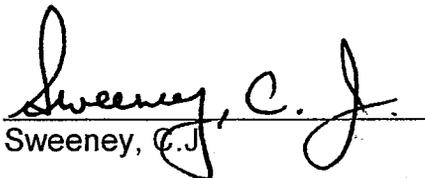
jurisdiction over the damage issues. We emphasize the issue of possession was apparently settled in 1998, and is not before us now.

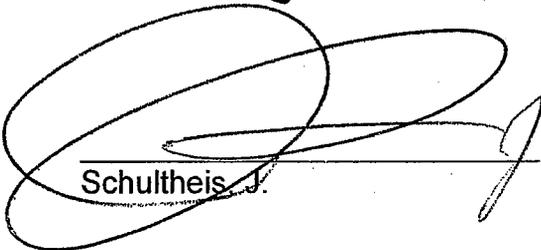
In sum, although possession is not the issue here today and no summons is in our record, CR 6(a) applied to the facts in the context of chapter 59.12 RCW's strict statutory scheme required Mr. Christiansen meet the *Canterwood Place* method of counting days over the 1998 July 4th weekend before proceeding with the bifurcated civil action for damages. Since Mr. Christiansen failed to meet that burden, the trial court did not err.

Affirmed.


Brown, J.

WE CONCUR:


Sweeney, C.J.


Schultheis, J.

APPENDIX B:

SUMMONS.

JUL 8 1998

SHERIFF BAFUS
WHITMAN COUNTY CLERK

SUPERIOR COURT OF WASHINGTON, FOR WHITMAN COUNTY

98 2 00148 6

ED L CHRISTENSEN,
Plaintiff,
VS.
RICHARD A. ELLSWORTH
Defendant.

CASE NO _____

EVICTON SUMMONS
(Residential)

**THIS IS A NOTICE OF A LAWSUIT TO EVICT YOU.
PLEASE READ IT CAREFULLY.
THE DEADLINE FOR YOUR WRITTEN RESPONSE IS:
5:00 PM O'CLOCK ON JULY 16, 1998.**

THE STATE OF WASHINGTON TO: Mr. Richard A. Ellsworth
405 S E Jordan Road - APT 005
Pullman, WA 99163-2557

This is notice of a lawsuit to evict you from the property which you are renting. Your landlord is asking the court to terminate your tenancy, direct the sheriff to remove you and your belongings from the property, enter a money judgment against you for unpaid rent and/or damages for your use of the property, and for court costs and attorney's fees.

If you want to defend yourself in this lawsuit, you must respond to the eviction complaint in writing on or before the deadline stated above. You must respond in writing even if no case number has been assigned by the court yet.

You can respond to the complaint in writing by delivering a copy of a notice of appearance or answer to your landlord to be received no later than the deadline stated above.

The notice of appearance or answer must include the name of this case (plaintiff and defendants), your name, the street address where further legal papers may be sent, your telephone number and your signature.

If there is a number on the upper right side of the eviction summons and complaint, you must also file your original notice of appearance or answer with the court clerk by the deadline for

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SHIRLEY BAFUS
WHITMAN COUNTY CLERK

your written response.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing the summons. Within fourteen days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any may be served on time.

You may also be instructed in a separate order to appear for a court hearing on your eviction. If you receive an order to show cause, you must personally appear at the hearing on the date indicated in the order to show cause in addition to delivering and filing your notice of appearance or answer by the deadline stated above.

This complaint is filed.

IMPORTANT

If you intend to contest this action, you must also file a written answer as indicated above on this summons.

IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF THE PROPERTY.

The notice of appearance or answer must be delivered to:

Ed L Christensen
1135 Hwy 95 N
Moscow, ID 83843-8703
Phone 208 882 5327

DATED this 8th day of July, 1998.


Ed L. Christensen, Plaintiff, Pro Se