VERMONT SUPREME COURT
109 State Street
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Case No. 26-AP-090

Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

NOVEMBER TERM, 2026

215 Summer Street, LLC* v. Melissa Thibodeau et al.	}	APPEALED FROM:
	}	
	}	Superior Court, Windsor Unit, Civil Division
	}	CASE NO. 23-CV-05356
		Trial Judge: Kerry Ann McDonald-Cady

In the above-entitled cause, the Clerk will enter:

Landlord appeals the civil division's order denying landlord's motion to vacate a prior judgment in favor of tenants in this residential eviction action. We dismiss the appeal as moot.

In October 2023, landlord sent tenants notice that their tenancy was being terminated for violating the lease terms. Landlord also sent notice that it was terminating the tenancy for no cause as of December 31, 2023. On December 22, 2023, landlord filed this eviction action against tenants. A merits hearing was held in January 2025, following which the civil division entered judgment in favor of tenants on landlord's claims. The court held that landlord's no-cause notice of termination was legally insufficient to support a judgment for possession because landlord filed its complaint before the tenancy terminated, and landlord did not amend its complaint after the termination date. The court also found that landlord failed to prove that tenants violated the lease. Landlord filed a motion to reconsider, which the court denied as untimely.

In December 2025, landlord moved for relief from judgment pursuant to Rule 60(b)(1), arguing that the civil division erred in holding that the anticipatory notice of no-cause termination was legally invalid. The civil division denied the motion, noting landlord had since filed a new ejectment action against tenants. The court also denied landlord's subsequent motion for reconsideration, which raised the same arguments. This appeal followed.

Landlord claims that the civil division abused its discretion in denying the Rule 60(b)(1) motion. According to landlord, the court committed a mistake of law in holding that landlord's expressly anticipatory no-cause eviction claim was invalid because the complaint was filed before the stated no-cause termination date. Landlord asks this Court to reverse and remand the matter to the civil division to reconsider the Rule 60(b)(1) motion.

As noted by the civil division, after judgment was entered in favor of tenants, landlord initiated a new eviction action in April 2025. See Am. Env't, Inc. v. Burlington Sch. Dist., 2024 VT 59, ¶ 8, 220 Vt. 96 ("A court may take judicial notice of mootness and an event that causes a case to be moot may be proved by extrinsic evidence outside the record.") (quotation omitted); V.R.E. 201 (providing that courts may take notice of adjudicative facts). The docket entries in that case show that tenants vacated the subject premises in February 2026 and that the civil division granted final judgment in favor of landlord in May 2026, while this appeal was pending. This Court therefore directed landlord to show cause why this appeal should not be dismissed as moot. See Holton v. Dep't of Emp. & Training, 2005 VT 42, ¶ 14, 178 Vt. 147 (explaining that "mootness generally precludes appellate review").

In its written response, landlord acknowledges that in the subsequent action, it recovered possession of the premises and judgment against tenants for $56,356.87 for unpaid rent and costs. Landlord argues that these events did not cure the civil division's alleged error of law and asserts that it may be entitled to additional unspecified monetary damages arising from the delayed eviction. Landlord argues that this Court should decide the underlying legal question to provide certainty in future no-cause eviction filings.

We conclude that this appeal is moot. Our jurisdiction is limited "to the determination of actual, live controversies between adverse litigants." Id. This eviction case became moot when landlord regained possession of the premises from tenants. See Handy v. Fiske, 2023 VT 46, ¶ 6, 218 Vt. 634 (holding that residential eviction case became moot when tenants moved out and landlord recovered possession). Although landlord alleges that it is entitled to unspecified additional monetary relief, "there is still no longer a live controversy, because these damages are derivative of the moot ejectment action." Id. Landlord has not demonstrated that it will suffer negative collateral consequences as a result of the trial court's Rule 60(b) decisions; "[t]he mere assertion that a legal question should be answered to lend clarity is insufficient." Id. ¶ 7. Nor has landlord shown that this appeal falls under the mootness exception for situations capable of repetition yet evading review. See id. ¶¶ 8-9 (rejecting landlord's claim that dismissal of ejectment action for insufficient notice was situation that would inevitably moot prior to review if it arose again). We therefore dismiss the appeal as moot.

Appeal dismissed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Nancy J. Waples, Associate Justice

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Christina E. Nolan, Associate Justice