

*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2003-281

JANUARY TERM, 2004

	}	APPEALED FROM:
	}	
Bradford B. Moore d/b/a Trinity	}	Lamoille Superior Court
Property Management	}	
	}	
v.	}	DOCKET NO. 35-3-03Lecv
	}	
Orland J. Thomas, Michele Walker and	}	Trial Judge: Edward J. Cashman
David Walker	}	
	}	
	}	

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

David Walker appeals from the trial court's final judgment holding him jointly and severally liable as a tenant for \$5679 in back rent plus interest and costs. He argues that the court erred in holding him liable as a tenant under the lease. We reverse and remand to the trial court for additional findings.

The following evidence was presented at trial. Walker's daughter Michele and her boyfriend Orland Thomas sought to rent an apartment from plaintiff Bradford Moore. Walker testified that he agreed to guarantee the rent payments between March 26, 1999 through August 15, 1999, the rental period specified on the lease. Walker signed the lease outside the presence of plaintiff. The lease refers to Walker, Michele, and Orland as A tenant and guarantor, and it specifies that only two adults may reside on the premises. Michele and Orland decided to continue to rent the apartment after August 15, 1999, and certain provisions of the lease were modified, and initialed by them.

In March 2003, plaintiff filed a complaint for eviction alleging that defendants owed \$3684 in back rent for the period between May 2002 and February 2003. The issue of Walker's status as a guarantor arose at trial. Plaintiff acknowledged that Walker was a guarantor and not a tenant. Both Walker and Michele testified that Walker's guarantee expired August 15, 1999 and was never renewed. Michele stated that she told plaintiff upon the expiration of the initial rental term that Walker would no longer act as a guarantor, and plaintiff dropped this requirement. At the close of the hearing, the court stated that, while it appeared that plaintiff was entitled to possession of the premises and judgment for the rent, it was A having trouble with the surety aspects of it. The court explained that A [n]ormally, if you make a substantial change in the guarantee, the nature of the guarantee, you have to get that agreed to by the surety. And I'm having trouble with whether you have the facts to show the surety agreed to that. The court did not address this issue in its final judgment order, however, and instead ordered judgment against A all the tenants, jointly and severally, for back rent. Walker appealed.

Walker argues that the court erred in finding him liable for debts incurred beyond the initial six month term of the lease. He asserts that it was undisputed at trial that he was a guarantor, not a tenant, and the court made no effort to distinguish his obligations as a guarantor in rendering its judgment. Thus, he maintains, the court failed to make adequate findings to support its judgment. We agree. A The trial court has a fundamental duty to make all findings necessary to support its conclusions, resolve the issues before it, and provide an adequate basis for appellate review. @ Secretary v. Irish, 169 Vt. 407, 419 (1999). In this case, it was undisputed that Walker was a guarantor rather than a tenant under the lease. Walker maintained that he guaranteed the rent payments only for the initial rental term and thus was not obligated to defendant for back rent. Although the court indicated its concern about this issue, it determined, without explaining, that Walker was a A tenant@ and should be held jointly and severally liable for back rent. The question of Walker's status

as a guarantor was clearly before the court, and its resolution was necessary to the disposal of the case. The court erred in failing to make a finding on this issue, and we reverse and remand for additional findings. See id. (where trial court failed to make finding essential to its conclusion, matter was reversed and remanded for additional findings).

Reversed and remanded.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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John A. Dooley, Associate Justice

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Paul L. Reiber, Associate Justice