

VERMONT SUPERIOR COURT  
Bennington Unit  
207 South St  
Bennington VT 05201  
802-447-2700  
www.vermontjudiciary.org



CIVIL DIVISION  
Case No. 21-CV-03305

Michael Deep v. Peter Gamble

## DECISION ON MOTION

This is an ejectment action pre-trial. Defendant filed a motion to dismiss which Plaintiff opposes.

Defendant contends the case was not timely served pursuant to V.R.C.P. 3(b)(1), it was not timely filed pursuant to 9.V.S.A. § 4467(k), the Plaintiff failed to terminate the tenancy and the Plaintiff failed to file a CARES Act certification.

Plaintiff contends, "We object to the motion to dismiss because you have an outstanding balance for rent in the amount of \$2617.24."

The motion to dismiss is granted for the reasons set forth below.

### Facts

Defendant received a Notice to Vacate for Non-Payment of Rent on August 2, 2021.

The Notice to Vacate provided a termination date of 14 days after receipt of the notice. The termination date pursuant to the notice was August 16, 2021.

Plaintiffs filed the complaint on October 19, 2021.

### Analysis

The law is clear, "A notice to terminate a tenancy shall be insufficient to support a judgment of eviction unless the proceeding is commenced not later than 60 days from the termination date set forth in the notice." 9 V.S.A. § 4467(k).

The termination date was August 16, 2021. The proceeding commenced October 19, 2021. Sixty-four days passed from August 16, 2021, until October 19, 2021. The law requires the proceeding to be commenced no later than sixty days from the termination date.

This proceeding was commenced after the expiration of the period required by law and must be dismissed.<sup>1</sup>

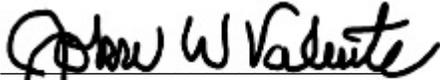
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<sup>1</sup> As the matter must be dismissed for insufficiency of filing, Defendant's remaining claims are not addressed.

**Order**

The motion to dismiss is granted. This matter is dismissed without prejudice.

Electronically Signed 4/19/2022 9:30 AM pursuant to V.R.E.F. 9(d)

  
John W. Valente  
Superior Court Judge