VERMONT SUPREME COURT
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Case No. 2021-100

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, 2021

Jason Purdy v. Michael Bandler*	}	APPEALED FROM:
	}	Superior Court, Windsor Unit,
	}	Civil Division
	}	CASE NO. 21-CV-00106
		Trial Judge: Robert P. Gerety, Jr.

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

Tenant appeals pro se from the denial of his request for monetary sanctions against landlord under Vermont Rule of Civil Procedure 11. We affirm.

In January 2021, landlord filed a pro se eviction complaint against tenant. Tenant, also pro se, moved to dismiss the complaint, raising various arguments, including the existence of a pending case involving the same parties and same subject matter. The court dismissed the complaint without prejudice. It found that landlord failed to state a claim on which relief could be granted as he failed to include in his complaint a description of the real estate at issue, a copy of the written lease, or a notice of termination of the lease. Landlord also failed to include a short and plain statement of the claim showing that he was entitled to relief. The court noted that it had considered giving landlord an opportunity to amend his complaint before dismissing it but had declined to do so because the claims that landlord was asserting were compulsory counterclaims in another pending case involving the parties.[*] The court feared that landlord's claims in the instant case would be considered foreclosed under the doctrine of res judicata if a final judgment was issued in the other case. It thus dismissed the complaint without prejudice

[*] We note that filings in the other case referenced by the trial court, Bandler v. Purdy, Docket No. 271-06-18 Wrcv, were inadvertently included in the Appeal Volume in this case. Those documents are not part of the record in this case and we have not considered them.

and noted that landlord could seek leave to amend his answer in the other case by filing a written motion in that docket.

Tenant then filed a motion seeking "a substantial monetary sanction" against landlord under Rule 11 for allegedly filing a frivolous lawsuit. The court denied his request. It noted that the underlying action was dismissed before tenant requested sanctions. It added that although the complaint failed to state a claim on which relief could be granted, those defects were caused by landlord's lack of legal training and ignorance of the niceties of proper pleading under the rules. The court explained that it allowed some degree of leeway when enforcing pleading rules where the offender was self-represented, not legally trained, and where it was persuaded that the conduct involved was not malicious. Looking at the specific circumstances of this case, the court determined that sanctions were not warranted. This appeal followed.

Tenant argues on appeal that landlord's pro se status did not protect him from being sanctioned under Rule 11. Tenant notes that he too was proceeding pro se. Tenant states that he told landlord by email to withdraw his complaint and he notes that landlord did not respond to his motion for sanctions.

We find no error. Rule 11 provides, as relevant here, that a party who submits a pleading to the court certifies that, "to the best the person's knowledge, information, and belief," the pleading "(1) is not being presented for any improper purpose"; "(2) the claims, defenses, and other legal contentions therein are warranted by existing law"; and "(3) the allegations and other factual contentions have evidentiary support" or "are likely to." Obviously, Rule 11 sanctions are not warranted every time a court dismisses a complaint for failure to state a claim or for otherwise failing to satisfy pleading requirements. The trial court has broad discretion in determining if Rule 11 sanctions are warranted, State v. Delaney, 157 Vt. 247, 256 (1991), and its decision will stand absent a clear abuse of that discretion. See John v. Med. Ctr. Hosp. of Vt., Inc., 136 Vt. 517, 519 (1978) ("Discretionary rulings are not subject to appellate review unless it is clearly shown that such discretion has been abused or withheld.").

It is true that, although "pro se litigants receive some leeway from the courts, they are still bound by the ordinary rules of civil procedure," which "include the obligations of Rule 11 and sanctions for noncompliance." Zorn v. Smith, 2011 VT 10, ¶ 22, 189 Vt. 219 (citing Pandozy v. Segan, 518 F. Supp. 2d 550, 558 (S.D.N.Y. 2007) (stating that "special solicitude that a pro se plaintiff must face does not extend to the willful, obstinate refusal to play by the basic rules of the system upon whose very power the plaintiff is calling to vindicate his rights" (quotation omitted))). The trial court in this case did not suggest otherwise. At the same time, however, we have recognized a litigant's pro se status is a relevant consideration "in deciding whether and how to sanction a litigant." Id.

As reflected above, the trial court considered the particular circumstances of this case and determined that no sanction was warranted. It provided reasoned grounds for its decision, including that landlord lacked legal training—a relevant consideration—and that landlord did not act out of malice. While tenant disagrees with the court's conclusion, he fails to show any abuse of discretion. See, e.g., Meyncke v. Meyncke, 2009 VT 84, ¶ 15, 186 Vt. 571 (mem.)

(explaining that arguments which amount to nothing more than disagreement with court's reasoning and conclusion do not make out case for abuse of discretion).

Affirmed.

BY THE COURT:

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Harold E. Eaton, Jr., Associate Justice

____
Karen R. Carroll, Associate Justice

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William D. Cohen, Associate Justice