

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
ASSOCIATE CIRCUIT COURT
AT KANSAS CITY**

CITY OF KANSAS CITY, MISSOURI)
A Municipal Corporation,)
)
Plaintiff,)
v.)
)
SR and JR,)
)
Defendant.)

Case No. [REDACTED]
Division 26

AMENDED JUDGMENT

On the 24th day of October, 2017, this matter came before the Court for Bench Trial. Plaintiff appeared by and through Counsel. Defendant JR appeared in person. Defendant SR was never served with this action and is dismissed from the case *without prejudice*. Evidence was heard and arguments presented to the Court. The Court took the matter under advisement.

Upon thorough and complete review, the Court finds that Plaintiff's First Request for Admissions were not properly served upon Defendant in compliance with Missouri Supreme Court Rule 59.01.

Specifically, on April 28, 2017, Plaintiff attempted to serve Defendants with the instant petition at [REDACTED] Avenue, [REDACTED], MO. Defendants were not served at the residence, and Plaintiff's special process server signed a sworn affidavit that the residence was vacant.

Defendant JR learned of the instant case from a third party. Relying upon this information, Defendant JR appeared in court on May 9, 2017, and was given a copy of Plaintiff's petition.

On May 17, 2017, a different Plaintiff filed a landlord tenant case against Defendant JR and others¹. An attempt to serve the Defendants at [REDACTED]

¹ During the bench trial, Plaintiff asked the Court to take judicial notice of the landlord tenant action, *Business People, LLC v. JR, SR and John/Jane Doe*.

Avenue, was unsuccessful and the case was eventually served by posting. On June 15, 2017, the Court entered a default judgment restoring possession of the property to that Plaintiff.

Despite this factual background, on September 7, 2017, Plaintiff mailed its First Request for Admissions to Defendant JR at [REDACTED]e, an address that Plaintiff was aware was vacant. Plaintiff then filed a Certificate of Service of Plaintiff's First Request for Admissions. However, the Certificate was captioned *City of Kansas City, Missouri v. Pearlie Smith*. The caption does not include the named Defendant.

Defendant testified she never received the First Request for Admissions and was not aware of the Request. The Court finds this testimony credible.

For the above stated reasons the Court finds Plaintiff's First Request for Admissions were not properly served upon Defendant in compliance with Missouri Supreme Court Rule 59.01. The Request for Admissions are procedurally void and of no effect.

Upon review of the evidence presented at trial the Court finds Plaintiff failed to meet its burden. Judgment entered for Defendant.

IT IS HEREBY SO ORDERED, ADJUDGED AND DECREED.

Date: November 21, 2017

[REDACTED]
[REDACTED]
JALILAH OTTO, JUDGE
Division 26

Certificate of Service

This is to certify that a copy of the foregoing was hand delivered/faxed/emailed/mailed and/or sent through the eFiling system to the following on the 21st day of November, 2017.

AB, Attorney for Plaintiff

SR, Defendant-DISMISSED BY PLAINTIFF

[REDACTED] AVE
[REDACTED], MO [REDACTED]

JR Defendant

[REDACTED] AVE
[REDACTED], MO [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] _____
[REDACTED] Judicial Administrative Assistant/Law Clerk