

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

<b>IN RE: ESTATE OF</b>	:	
<b>SAUNDRA HESSERT,</b>	:	<b>No. 41-05-0623</b>
<b>Deceased</b>	:	<b>ORPHANS COURT DIVISION</b>
<b>JEFFREY S. HARMAN,</b>	:	
<b>EXECUTOR OF THE ESTATE OF</b>	:	
<b>SAUNDRA HESSERT</b>	:	
<b>Plaintiff</b>	:	
<b>vs.</b>	:	<b>CIVIL ACTION – EJECTMENT</b>
<b>TANYA BECK and</b>	:	<b>DOCKET NO. 06-02521</b>
<b>DONALD BECK</b>	:	

**OPINION AND ORDER**

**AND NOW**, this \_\_\_\_ day of December, 2007, after the November 16, 2007 hearing on the Defendant’s Petition for Distribution in Kind of Real Property Pursuant to 20 Pa C.S. § 3534 and 20 Pa. C.S. § 3541, this Court makes the following findings.

Saundra Hessert (Decedent) died on October 24, 2005. Petitioner, Tanya Beck and Executor Jeffrey Harman are the children of the Decedent. Both parties were appointed Co-Executors by the Decedent’s Will on November 14, 2005. At the time of her death, Decedent owned a property at 934 Nicely Avenue, Montoursville, PA the estimated value of which was approximately \$95,000.00. Tanya Beck and her family resided in the home approximately two years prior to the death of the Decedent and since her death without payment of rent. Throughout the majority of 2006, Petitioner claimed to be interested in purchasing the property. Numerous meetings were scheduled with no indication that Petitioner was moving forward on her attempts to purchase the property, let alone fulfill her duties as executor. Therefore, on October 26, 2006, Petitioner was removed as executor.

After no further progress was made on the Petitioner's purchase of the property, and without any payment to date for the reasonable rental value of the property to the estate, on May 25, 2007, Executor filed an ejectment action. In addition, Petitioner was placed on notice that there was a party interested in purchasing the property; however she was still given an opportunity to purchase the Nicely Avenue property. If Petitioner was still interested, she would need to provide a letter of commitment from a mortgage company. On June 15, 2007, the instant Motion for Distribution was filed by Christian Frey, Esquire. Petitioner continued to indicate her desire to purchase the property on Nicely Avenue, going so far as to execute an agreement of sale on July 16, 2007. As set forth in the agreement of sale, the agreed upon sale price of the property was \$90,000.00. Payment by the Petitioner was to be set forth as follows, \$50.00 on signing of the agreement, \$18,000.00 in earnest monies which would come from a partial distribution of the estate, and the balance of \$71,950.00 payable upon closing. Concurrently, Executor's ejectment action to remove Petitioner from the residence was moving forward. Additionally, on October, 24, 2007, Counsel for Petitioner filed a Motion to Withdraw as Counsel, alleging that he had no longer had contact with his client from approximately mid-July 2007 until the present.

At the time set for the hearing, Petitioner failed to appear. Instead of dismissing the Motion, this Court took testimony on the current financial status of the estate. Both Chrissy Ball and Ann Haag of the Steinbacher Law Firm testified about their attempts to contact Petitioner and provided a general accounting of the estate as it exists to date. Jeffrey Harman also testified as to the assets and the obligations of the estate.

It is clear from the testimony received at the hearing that there are not sufficient assets to cover all of the obligations of the estate. The delay of the Petitioner to either make a valid offer

on the house or vacate the premises requiring the attorney for Executor to file an action in Ejectment, has cost the estate a significant amount of money<sup>1</sup>. In light of the financial status of the estate, even excluding the attorney's fees generated by the ejectment action, this Court's denial of the Petition for In Kind Distribution is justified.

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<sup>1</sup> The outstanding assets of the estate consist of approximately \$6000.00 in stock, personal property in the sole possession of the petitioner consisting of a 1995 Chevrolet Cavalier and household possessions valued at approximately 2,500.00, and the real estate (also in the sole possession of the Petitioner) valued at \$90,000.00. The debts (not including the fair market value of rent unpaid by the Petitioner in the amount of approximately \$14,000.00) total nearly \$61,000.00.

**ORDER**

AND NOW, this     day of December, 2007 after hearing on the Petition for In Kind Distribution of Property, it is ORDERED AND DIRECTED that the Petition is hereby DISMISSED. This Court, relying on the authority granted to it under Sections 3351 and 3311 of the Orphans Code, declares the estate insolvent and grant Executor, Jeffrey Harman to sell the real property at 934 Nicely Avenue, Montoursville PA. It is further ORDERED AND DIRECTED that the Executor shall take possession of the property to prepare it for sale, including but not limited to removing any of the occupants from the premises to facilitate the sale.

Petitioner, Tanya Beck, along with any other occupants of the premises is directed to vacate the premises on or before **January 10, 2008**. The Sheriff of Lycoming County is further ORDERED AND DIRECTED to remove the Petitioner and any other occupants from the premises, if the Petitioner fails to quit by January 10, 2008.

By the Court,

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Nancy L. Butts, Judge

cc:    Julianne E. Steinbacher, Esq.  
      Jose R. Legaspi, Esq.  
      Christian D. Frey, Esq.  
      Tanya Beck,  
          934 Nicely Avenue,  
          Montoursville, PA 17754