

CORMIER v. McRAE, 609 A.2<sup>nd</sup> 676 (1992)

Court: D.C Court of Appeals, opinion by Ferren, A.J.

Judicial History: Landlord filed action for possession of apartment. The Superior Court of the District of Columbia granted summary judgment for tenant, and landlord appealed.

Facts: In this landlord's action for possession of an apartment, the trial court granted summary judgment for the tenant. The tenant successfully argued that, although he had received a 30-day "notice to cure or vacate" pursuant to D.C. Code Section 45-2551(b) (1990) (Rental Housing Act of 1985), the landlord had failed to comply with the further requirement of D.C. Code Section 45-1402 (1990) that a notice "to quit" a month-to-month tenancy must be given, not merely 30 days in advance of termination, but at least 30 days before the end of a rental period and thus at least 30 days before the date on which a new month-to-month tenancy would otherwise begin. To the contrary, the landlord argued that Section 45-2551(b) supersedes – implicitly repeals – Section 45-1402 as applied in this case, and thus, in order to evict the tenant, the landlord was not required to provide a notice to quit expiring on the very day the lease had commenced.

Holding: The Court of Appeals held that:

- 1.) a housing landlord subject to eviction statute may not terminate month-to-month tenancy under notice to quit statute without giving valid statutory reason;
- 2.) landlord may file action for possession of leased residential premises alleging violation of obligation of tenancy other than nonpayment of rent without regard to notice to quit statute's timing requirement;
- 3.) landlord's notice to cure or vacate was sufficient under eviction statute.

Reasoning: Landlord's notice to month-to-month tenant to cure or vacate was sufficient under statute providing that housing provider may recover possession of rental unit where tenant is violating obligation of tenancy and fails to correct violation within 30 days after receiving notice to correct violation or vacate; tenant received notice to cure or vacate of more than 30 days during which time he could have cured alleged violations and avoided landlord's suit for possession.

Decision: Reversed.