

Kemberly Martin,

Plaintiff,

-versus-

Commonwealth Edison Company,

Defendant.

Complaint

File Number: 11-0404

Judge: Claudia Sainsot

CHIEF CLERK'S OFFICE

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ILLINOIS COMMERCE
COMMISSION

ANSWER DEFENDANTS MOTION TO DISMISS

Now comes now the Plaintiff, Kemberly Martin, before the Court, to answer the defendants' MOTION TO DISMISS.

Defendants, Commonwealth Edison Company claim, pursuant to their attorney, Mark L. Goldstein, that the Court should dismiss the Formal Complaint against them for reason that the facts stated in the Formal Complaint have no basis.

1. Plaintiff has filed a mixed meter complaint for her condominium building located at 5727 South Michigan Avenue, Chicago, Illinois alleging that for a three year period the meters were not properly assigned to each of the condominium owners.
2. Plaintiff seeks to have ComEd correct the meters and billing for each of the condominium owners units.
3. Defendant went out to property on June 9, 2011 and in the presence of the Plaintiff and other condominium owners, verified that all four meters are correct on all accounts and, in fact, the meters were not mixed.
4. Defendant attached an Affidavit of Monica Merino verifying that the meters were not mixed and all condominium owners accounts have been billed correctly.
5. Based on the foregoing, Defendant asserts there is no basis for the complaint by the Plaintiff and the complaint should be dismissed.

ARGUMENT

The defendant seems to have failed to grasp what the subject of the matter is in this Formal Complaint.

In answer to Defendant #1: The allegation that the meters were not properly assigned is verified by proof of the licensed and contracted electricians receipt of service. The electrician was hired to resolve said issue due to Commonwealth Edison's negligence.

In answer to Defendant #2: Plaintiff did in fact and was told such would occur, the correction of the meter numbers to condominium unit owners on billing statements and the correction of unit owners monthly bill commencing from start of complaint date until resolution date.

In answer to Defendant #3: It is correct that two Commonwealth Edison technicians came to said property on June 9, 2011 to verify that the meters were properly assigned. It is incorrect that other condominium owners witnessed the presence of this verification. Truth is that only the Plaintiff witnessed the presence of defendant.

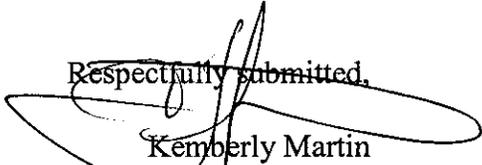
In answer to Defendant #4: Although Monica Merino has submitted an affidavit verifying the meters are correct and not mixed; she cannot and did not **EVER** verify that meters were *never* mixed and that because of said mixed meters, she cannot verify that incorrect billing did not occur because of this.

In answer to Defendant #5: Defendants assertion is wrong; there was and still is a basis for the Formal Complaint, and thus the complaint should not be dismissed.

CONCLUSION

Whereas for the above stated reasons the Plaintiff respectfully requests this court deny Defendants Motion to Dismiss.

Respectfully submitted,


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Certificate of Service

I certify that on the 9th day of August, 2011, I have served the opposing counsel and parties indicated below with a copy of the foregoing via US Mail:

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