

These statutes are not superseded by the RAPS. See RAP 18.22, Comment (RCW 59.12.200 affects relief available under Rules 8.1 and 8.3, and is retained). The posting of a bond entitles the tenant to be restored to and remain in the premises until the appeal is determined. Housing Authority of Pasco v. Pleasant, 126 Wn. App. 382, 390, 109 P.3d 422 (2005). A bond is required only if the tenant wants to continue to occupy the premises and the tenant seeks a stay pending review. Id.

If the trial court order is to be stayed during the appeal, the statutes require that Smith post a bond. The amount of the bond is more properly addressed by the trial court in the first instance. A party may object to the trial court's decision by motion in this court under RAP 8.1(h). The temporary stay, which prevents Smith's immediate eviction, will remain in place to allow time for the parties to address the issue of the amount of the bond in the trial court.

On January 3, 2020, Smith filed a motion to modify, on January 21, 2020, Smith filed a supplement to her mmd, and on January 27, 2010, Syhadley filed an answer.

Meanwhile, on January 16, 2020, the trial court entered a supersedeas decision that required Smith to post a supersedeas bond or alternate security of cash or a certified check in the court registry in the amount of \$53,631.85 by January 30, 2020.

Also on January 16, 2020, Syhadley filed a new complaint for unlawful detainer (King County No. 20-2-01335-8). The complaint alleges that Smith assaulted another tenant on November 26, 2019 and has been charged with fourth degree assault in Mercer Island; that Smith's actions violated RCW 59.18.130(8); and that Syhadley can proceed with an unlawful detainer action without serving a prelitigation notice. See RCW 59.18.180(4).

On January 27, 2020, Smith filed an objection to the trial court's supersedeas decision (see RAP 8.1(h)), along with an emergency motion for stay and other relief. On January 27, 2020, I issued a ruling that included the following:

Late today appellant Addie Smith filed an objection to the trial court's supersedeas decision, emergency motion for stay, and for other relief. Time does not permit me to address the requests other than the following:

The trial court's supersedeas decision (Judge Bowman) gives Smith until January 30, 2020 to post the supersedeas cash or bond to keep the stay pending appeal in place.

In the trial court Syhadley filed a motion for an order to show cause why a writ of restitution and other relief should not be issued/awarded. This proceeding is under a new cause number. The trial court (Judge Shafer) has signed the order, and the hearing is set for tomorrow, January 28, 2020 at 9:00 a.m.

The temporary stay of the earlier writ of restitution was to remain in place to allow time for the trial court to rule on the supersedeas issue and either party to file an objection in

this court. As noted above, the court gave Smith until January 30, 2020 to post the supersedeas. Smith's current motion includes her objection to the supersedeas decision.

I do not have sufficient information before me to address the hearing set for tomorrow other than to note the stay of the earlier writ of restitution and pending supersedeas issue.

Syhadley's answer to the current motion is due January 30, 2020.

On January 28, 2020, the trial court entered judgment for Syhadley on the new unlawful detainer action and ordered the clerk to issue a writ of restitution to restore possession of the apartment to Syhadley.

On January 29, 2020, Smith filed a lengthy supplement to her objection to the supersedeas decision.

On January 30, 2020, the parties filed several motions/answers:

Smith filed a "Supplement to Appellant's Notice of Appeal and Motion for Stay."

Smith filed a motion to extend the time to perfect the record.

Syhadley filed an answer to Smith's motions.

Smith filed a motion for expedited consideration of her motion to modify and for clarification.

Lastly, today, January 31, 2020, Syhadley filed a motion to lift the stay, noting that Smith had not posted the supersedeas required to stay the writ of execution pending appeal.

Smith continues to argue that this proceeding is not properly an unlawful detainer action because living in the apartment was part of her compensation. She argues, accordingly, that the statute for setting a bond in an unlawful detainer proceeding does not apply and that the trial court's supersedeas decision is in error. Smith also argues that her employment dispute (and her right to live in the apartment) are subject to binding arbitration. Smith further asserts that she has been the subject of harassment by Syhadley and other tenants, which has resulted in her developing PTSD, that opposing counsel has committed perjury, and the trial court is biased and has acted improperly. Smith asserts that she has been unemployed since August 2019, is destitute, cannot afford to post the bond, and cannot afford to move. Smith also seeks to consolidate her challenge to the second unlawful detainer proceeding with the appeal of the first one.

Syhadley argues that the proceeding is properly an unlawful detainer action, reasoning that Smith's tenancy was not conditioned on her employment; rather under the rental agreement her rent was reduced as a benefit while she was employed; that Syhadley could have fired

Smith and collected rent as agreed, but it elected to fire Smith and terminate her tenancy; and that just because its two actions occurred within a few weeks of each other does not change the fact that Smith was properly evicted. Syhadley also asserts that the two unlawful detainer proceedings are separate actions, and only the first one is on appeal so there is nothing to consolidate.

Given this history, I conclude:

Consolidation – Smith has not filed a notice of appeal challenging the second unlawful detainer proceeding, so at this point there is nothing to consolidate.

Indigency and preparation of the record – In a civil case, public funds will be expended for an appeal only if the Supreme Court orders it, and it rarely does so. If Smith wants to pursue this, she must file a motion for findings of indigency in the trial court. If the court finds her indigent, the superior court shall transmit the findings to the Supreme Court. See RAP 15.2(b), (c), (d). I will extend the time for Smith to file the designation of clerk's papers and statement of arrangements for preparation of a report of proceedings until March 6, 2020.

Supersedeas – Smith's objection to the trial court's supersedeas decision is not well taken. The amount of the supersedeas is proper under the applicable statutes. And even if there were merit to Smith's argument that the proceeding is not properly brought as an unlawful detainer under chapter 58.18, under RAP 8.1(b)(2) and 8.1(c)(2), Smith would be required to post a supersedeas cash or bond and the amount would be similar, if not more.

Stay – Smith seeks a continuation of the stay pending appeal; Syhadley seeks to have the stay lifted. As I previously ruled, the posting of a bond entitles a tenant to be restored to and remain in the premises until the appeal is determined. Housing Authority, 126 Wn. App. at 390. Under this authority, if Smith chooses to remain in the property pending appeal, she must post the supersedeas; if she does not, she cannot continue to occupy the apartment. Id.

Expedite motion to modify and clarification – Smith is entitled to have a panel of judges consider her motion to modify my prior ruling and this ruling. The temporary stay of the writ of execution will remain in place to allow time for this. Any motion to modify this ruling is due February 5, 2020, any answer is due 5 days after service of the motion, and any reply is due 3 days after service of the answer. The motion or motions to modify will be promptly submitted to a panel of judges once the applicable dates pass.

Therefore, it is

ORDERED that the time to file the designation of clerk's papers and statement of arrangements is extended to March 6, 2020; and it is

ORDERED that Smith's objection to the trial court's supersedeas decision is denied; and it is

ORDERED that the temporary stay of the writ of execution will remain in place until further order of this court; and it is

ORDERED that any motion to modify this ruling is due February 5, 2020, any answer is due 5 days after service of the motion, and any reply is due 3 days after service of the answer.

Sincerely,



Richard D. Johnson  
Court Administrator/Clerk

HCL

February 5, 2020

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CASE #: 80780-3-I  
Syhadley, LLC, Respondent v. Addie Smith, Appellant

CASE #: 81080-4-I  
Syhadley, LLC, Respondent v. Addie Smith, Appellant

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on February 5, 2020, regarding Appellant's Emergency Motion for Stay:

Both of these appeals involve unlawful detainer. In No. 80780-3-I, Addie Smith appeals a writ of restitution to remove her from the apartment she lives in on Mercer Island. The basis of the order is Smith's failure to pay rent. The trial court has entered an order requiring Smith to post a bond of \$53,631.85 to stay execution of the writ pending appeal. I have issued several rulings, including denying Smith's objection to the trial court supersedeas decision. A temporary stay is in place to allow Smith to file a motion to modify, which is currently due today, February 5, 2020.

Syhadley also brought a second unlawful detainer action based on Smith's recent arrest for fourth degree assault. The trial court has issued a writ of restitution to remove Smith from the apartment. The sheriff intended to execute the writ this morning. Late yesterday Smith filed a notice of appeal and an emergency motion for stay. She seeks a stay pending the upcoming hearing on the criminal proceeding.

The appeal is assigned No. 81080-4-I. I granted a temporary stay to allow time to further review of the motion.

I now rule as follows:

In both matters, Syhadley seeks to remove Smith from the apartment, albeit on alternative bases. To simplify the appeals moving forward, review will be

consolidated. Smith's emergency motion to stay the writ of execution in No. 81080-4-I is denied.

The temporary stay of both actions will remain in place to allow Smith to file and a panel of judges to rule on the motions to modify. Smith has already filed a motion to modify my December 19, 2019 ruling, and Syhadley has filed an answer. I will extend the date for Smith's motion to modify so that all motions to modify can be considered together. Accordingly, any motion to modify my January 31, 2020 ruling and this ruling is due February 7, 2020, any answer is due 5 days after service of the motion, and any reply is due 3 days after service of the answer. The motions to modify will be submitted to a panel of judges for consideration.

Therefore, it is

ORDERED that review in No. 81080-4-I is consolidated under No. 80780-3-I; and it is

ORDERED that the temporary stays of the writs of execution will remain in place until further order of this court; and it is

ORDERED that any motion to modify my January 31, 2020 ruling and this ruling is due February 7, 2020, any answer is due 5 days after service of the motion, and any reply is due 3 days after service of the answer.

Sincerely,



Richard D. Johnson  
Court Administrator/Clerk

HCL

Cc: Hon. Julie Spector  
Hon. Brad Moore

*The Court of Appeals  
of the  
State of Washington*

RICHARD D. JOHNSON  
*Court Administrator/Clerk*

February 20, 2020

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CASE #: 80780-3-I  
Syhadley, LLC, Respondent v. Addie Smith, Appellants

Counsel:

Please find enclosed a copy of the Order Denying Motions to Modify and to Compel Arbitration, and Lifting Temporary Stays entered in the above case today.

The order will become final unless counsel files a motion for discretionary review within thirty days from the date of this order. RAP 13.5(a).

Sincerely,



Richard D. Johnson  
Court Administrator/Clerk

enclosure

HCL

Cc: Hon. Julie Spector  
Hon. Brad Moore

FILED  
2/20/2020  
Court of Appeals  
Division I  
THE COURT OF APPEALS OF THE STATE OF State of Washington  
DIVISION ONE

SYHADLEY, LLC,	)	No. 80780-3-I
	)	consolidated with
Respondent,	)	No. 81080-4-I
	)	
v.	)	ORDER DENYING
	)	MOTIONS TO MODIFY
ADDIE SMITH,	)	AND TO COMPEL
	)	ARBITRATION, AND
Appellant.	)	LIFTING TEMPORARY STAYS
	)	

Appellant Addie Smith has filed motions to modify Commissioner Neel's December 19, 2019, January 31, 2020, and February 5, 2020 rulings and has also moved to compel arbitration. We have considered the motions to modify under RAP 17.7 and have determined that they should be denied. Smith's motion to compel arbitration goes to the merits of her appeals and is denied as premature. In accordance with the commissioner's February 5, 2020 ruling leaving the temporary stays in place pending resolution of the motions to modify, the temporary stays are hereby lifted.

Now, therefore, it is hereby

ORDERED that the motions to modify and to compel arbitration are denied; and it is further

ORDERED that the temporary stays in both unlawful detainer actions are lifted.

Chair, J.

\_\_\_\_\_, J.

\_\_\_\_\_, J.

**IN THE SUPREME COURT OF THE STATE OF WASHINGTON**

SYHADLEY, L.L.C.,

Respondent,

v.

ADDIE SMITH,

Petitioner.

No. 98196-5

Court of Appeals No. 80780-3-I

**RULING DENYING REVIEW**

Pro se petitioner Addie Smith seeks discretionary review of a decision by Division One of the Court of Appeals denying her motion to compel arbitration and lifting previously imposed stays of writs of restitution issued by the King County Superior Court in two unlawful detainer actions filed by Ms. Smith's landlord and former employer, respondent Syhadley, L.L.C., while Ms. Smith's consolidated appeals are pending. The primary disputed issue here is whether Ms. Smith should be required to post a supersedeas bond pending appeal. *See* RCW 59.12.200. On Ms. Smith's emergency motion, I stayed the writs of restitution pending expedited consideration of Ms. Smith's motion for discretionary review. The matter proceeded to oral argument by teleconference on March 26, 2020. As for Ms. Smith's pending appeal, she moved for an expenditure of public funds for purposes of pursuing that appeal, which Department One of this court denied on March 31, 2020. The instant motion for discretionary review is now denied, as explained below.

Ms. Smith was employed by respondent to manage its apartment complex. She was also a resident of the complex, but her lease was not conditioned on her employment by respondent. Her compensation for managing the complex included a rent credit. Ms. Smith was an at-will employee, but her employment agreement included an arbitration clause for employee-employer disputes.

Respondent subsequently terminated Ms. Smith's employment. After her termination, Ms. Smith defaulted on her rent payments. Respondent filed an unlawful detainer action. The superior court granted a writ of restitution, concluding that Ms. Smith owed over \$11,000 in unpaid rent, and awarded respondent reasonable costs and attorney fees. Ms. Smith then appealed. While the appeal was pending, Ms. Smith was arrested and charged with assaulting another tenant, which led to a second unlawful detainer action resulting in judgment in favor of respondent. Ms. Smith appealed the second unlawful detainer judgment, and the Court of Appeals consolidated the cases.

Ms. Smith now has two writs of restitution entered against her. The superior court set a supersedeas bond amount of \$53,631.85 to stay execution of the writs pending appeal. Ms. Smith challenged the supersedeas decision by way of a motion for discretionary review. Ms. Smith also moved to compel arbitration.

Commissioner Mary Neel entered multiple rulings denying relief on the supersedeas issue but maintaining a temporary stay of the writs of restitution pending Ms. Smith's motions to modify her rulings. A panel of judges denied Ms. Smith's motion to compel arbitration as premature, denied her motions to modify the commissioner's rulings, and lifted the temporary stays. RAP 17.7. Ms. Smith now seeks discretionary review in this court. RAP 13.3(a)(2), (c), (e); RAP 13.5(a). She also moved for accelerated consideration and an emergency stay. As indicated, I stayed the writs of restitution pending resolution of the instant matter in this court. I further

directed that the motion for discretionary review be placed on my earliest available motion calendar, but Ms. Smith's motion for oral argument caused some delay.

As a preliminary matter, a few days before oral argument, Ms. Smith, who had asked for accelerated consideration, filed a motion to continue oral argument pending further development of her appeal. I denied that motion, and Ms. Smith has moved to modify that ruling. Ms. Smith also moved for me to recuse myself, claiming I am prejudiced against her. There is no persuasive basis for my recusal or disqualification. I have never participated in a previous proceeding involving Ms. Smith, and I have never met her, apart from a fleeting but cordial telephone conversation a few weeks ago, where I merely directed Ms. Smith to the clerk's office to answer her questions about setting up a telephonic hearing. As I explained to Ms. Smith at oral argument, I denied the motion to continue the hearing because I believed it was very important to hear her views on this matter. I further assured her that it was my determination to decide this matter solely on the briefing, the applicable legal authorities, and the record, and that I would not rule on the matter immediately in light of her then pending motion for an expenditure of public funds, which this court has since denied. I denied the recusal motion orally at the teleconference hearing and do so again in this ruling.

Moving on, to obtain discretionary review in this court, Ms. Smith must demonstrate that the Court of Appeals committed obvious error that renders further proceedings useless; or that it committed probable error that substantially alters the status quo or that substantially limited a party's freedom to act; or that the Court of Appeals departed so far from the accepted and usual course of judicial proceedings, or so sanctioned such a departure by the superior court, as to justify this court exercising its revisory jurisdiction over this matter. RAP 13.5(b). Ms. Smith contends that the Court of Appeals committed probable error within the meaning of RAP 13.5(b)(2) and

that it departed from the accepted and usual course of judicial proceedings under RAP 13.5(b)(3).

Ms. Smith first contends that the Court of Appeals erred in declining to consider her motion to compel arbitration as premature. She relatedly argues that the superior court did not rule on her motion to compel arbitration. The Court of Appeals stated that the motion to compel arbitration went to the merits of her appeal. The issue properly before the Court of Appeals at that moment was Ms. Smith's motion to modify the commissioner's rulings as they pertained to Ms. Smith's requirement to file a supersedeas bond. RAP 17.7. The Court of Appeals committed no error, either obviously or probably, in declining to consider a matter not properly before it in relation to a motion to modify.

Ms. Smith further asserts that the Court of Appeals erroneously denied her challenges to the supersedeas amounts set by the superior court and claims that she was exempt from supersedeas as respondent's employee. It seems one of Ms. Smith's primary theories is that she is not subject to an unlawful detainer action because this is essentially an employee-employer dispute. In other words, it is Ms. Smith's position that she's not a tenant but rather an employee who seeks to arbitrate her termination. But the employment related documents in the record show that Ms. Smith's apartment lease was not conditioned on her employment by respondent. *See* RCW 59.18.040(8) (unlawful detainer statute does not apply where tenant's right to occupy premises conditioned on tenant's employment by landlord). Her rent was covered as part of her compensation package while she was employed as apartment manager, but once that relationship ended, she had to start paying rent directly out of her own pocket. This is a relatively straightforward unlawful detainer case. Ms. Smith was the losing party in that matter and is now subject to two writs of restitution. She was required to post a supersedeas bond to stay execution of the writs pending appeal. RCW 59.12.200, .210.

Ms. Smith alleges she is the victim of racially motivated violence, particularly by other apartment tenants. This claim causes me concern; however, other claims and counterclaims are generally not allowed in unlawful detainer proceedings unless they are necessarily related to the right of possession of the premises. *Munden v. Hazelrigg*, 105 Wn.2d 39, 45, 711 P.2d 295 (1985); *Excelsior Mortg. Equity Fund, II, LLC v. Schroeder*, 171 Wn. App. 333, 344, 287 P.3d 21 (2012). Ms. Smith has not made that showing. She must seek some other way to obtain relief from the alleged racially motivated acts against her.

Ms. Smith contends that the Court of Appeals erred in lifting the stay of the writs of restitution. That issue alone does not warrant review. Besides, the stay has been maintained while the instant motion for discretionary review was considered.

But even if the Court of Appeals committed probable error (which need not be decided), Ms. Smith cannot show a substantial change in the status quo or a substantial limitation on her freedom to act for purposes of that rule. The rule does not apply if the decision merely alters the status quo of litigation or affects a party's freedom to act in relation to that litigation. *State v. Howland*, 180 Wn. App. 196, 207, 321 P.3d 303 (2014), *review denied*, 182 Wn.2d 1008 (2015). The Court of Appeals decision affects the status of the unlawful detainer action only pending Ms. Smith's appeal.

Ms. Smith also complains that the Court of Appeals departed from the accepted and usual course of judicial proceeding by failing to sanction opposing counsel for perjury. RAP 13.5(b)(3). This appears to be part of Ms. Smith's unfortunate tendency to make personal attacks on judges and lawyers who displease her. There is no apparent factual basis for these assertions. There is no indication of a reviewable departure from the accepted and usual course of judicial proceedings.

In sum, Ms. Smith fails to show the existence of grounds justifying this court's interlocutory review under RAP 13.5(b). The motion for discretionary review is

therefore denied. The current stay of the writs of restitution will be maintained until expiration of the time for filing a motion to modify this ruling, or if such motion is filed, until further order of this court. The parties are also reminded that further action to effectuate Ms. Smith's eviction may be subject to restrictions imposed in light of the ongoing COVID-19 emergency.



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Michael E. Whinston  
COMMISSIONER

April 9, 2020

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/8/2020  
BY SUSAN L. CARLSON  
CLERK

# THE SUPREME COURT OF WASHINGTON

SYHADLEY, LLC, ) No. 98196-5  
Respondent, )  
 )  
v. ) **O R D E R**  
 )  
ADDIE SMITH, ) Court of Appeals  
Petitioner. ) No. 80780-3-I  
 ) (consolidated with No. 81080-4-I)  
 )  
 )  
 )

Department I of the Court, composed of Chief Justice Stephens and Justices Johnson, Owens, Gordon McCloud and Montoya-Lewis (Justice González sat for Justice Johnson), considered this matter at its July 7, 2020, Motion Calendar and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petitioner's motion to modify the Commissioner's ruling is denied. The Respondent's motion for an order requiring the Appellant to provide a transcript of the oral argument before the Commissioner is also denied. Further, the stay imposed in the Supreme Court Commissioner's April 9, 2020, ruling is now lifted.

DATED at Olympia, Washington, this 8th day of July, 2020.

For the Court

See, C. J.  
CHIEF JUSTICE