

FILED
UTAH APPELLATE COURTS

MAR 20 2013
FILED DISTRICT COURT
Third Judicial District

IN THE UTAH COURT OF APPEALS

MAR 21 2013

SALT LAKE COUNTY

---ooOoo---

Salt Lake City Corporation,)
)
Plaintiff and Appellee,)
)
v.)
)
Darlene Schmidt,)
)
Defendant and Appellant.)
)
)

By _____ Deputy Clerk

ORDER OF SUMMARY DISMISSAL

Case No. 20130082-CA

Before Judges Thorne, Roth, and Christiansen.

Darlene Schmidt appeals from the district court's order granting Salt Lake City Corporation's motion to voluntarily dismiss its complaint with prejudice. This matter is before the court on Salt Lake City's motion for summary disposition based upon lack of jurisdiction.

Utah Code section 78A-8-106(2) states that "the decision of the trial de novo [in a case originating in a small claims court] may not be appealed unless the court rules on the constitutionality of a statute or ordinance." Utah Code Ann. § 78A-8-106(2) (LexisNexis 2012). Accordingly, if the district court does not rule on the constitutionality of a statute or ordinance, "the decision of the district court is final and this court has no jurisdiction to hear an appeal thereof." *State v. Hinson*, 966 P.2d 273, 277 (Utah Ct. App. 1998). Salt Lake City originally filed a small claims action against Schmidt on August 15, 2012, concerning a parking ticket that was issued to her in July of 2012. A trial was conducted in small claims court on September 14, 2012, resulting in a judgment in favor of Salt Lake City. Schmidt appealed, seeking a trial de novo in the district court. On January 3, 2013, the district court granted Salt Lake City's motion to voluntarily dismiss its complaint with prejudice.

Schmidt seeks review of the district court's order dismissing the complaint against her. The record does not demonstrate that the district court ruled on the constitutionality of any statute or ordinance. Therefore, because this case originated in a small claims court and the district court did not rule on the constitutionality of a statute or ordinance, this court lacks jurisdiction to hear the appeal. *See id.* When a court lacks jurisdiction, it "retains only the authority to dismiss the action." *Varian-Eimac, Inc. v. Lamoreaux*, 767 P.2d 569, 570 (Utah Ct. App. 1989).

IT IS HEREBY ORDERED THAT the appeal is dismissed.

Dated this 20th day of March, 2013.

FOR THE COURT:

A handwritten signature in black ink, appearing to read "S.L. Roth", written over a horizontal line.

Stephen L. Roth, Judge

CERTIFICATE OF MAILING

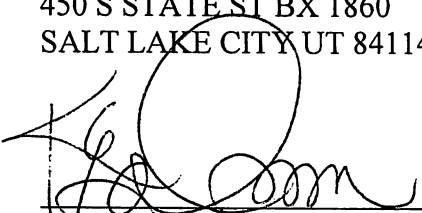
I hereby certify that on the 28th day of March, 2013, a true and correct copy of the attached ORDER was deposited in the United States mail or placed in Interdepartmental mailing to be delivered to:

DARLENE SCHMIDT
1450 E PLATA WAY
SANDY UT 84093

JAYSEN R OLDROYD
SALT LAKE CITY ATTORNEYS OFFICE
451 S STATE ST STE 505
PO BOX 145478
SALT LAKE CITY UT 84114-5478

HONORABLE VERNICE TREASE
THIRD DISTRICT, SALT LAKE
ATTN: AUBREE FOX & SUSAN NORBY
450 S STATE ST BX 1860
SALT LAKE CITY UT 84114-1860

THIRD DISTRICT, SALT LAKE
ATTN: AUBREE FOX & SUSAN NORBY
450 S STATE ST BX 1860
SALT LAKE CITY UT 84114-1860



Judicial Secretary

TRIAL COURT: THIRD DISTRICT, SALT LAKE, 128900070
APPEALS CASE NO.: 20130082-CA