

Court of Appeals, State of Michigan

ORDER

Enbridge Energy Limited Partnership v Robert C. Nash

Joel P. Hoekstra
Presiding Judge

Docket No. 313695

Jane E. Markey

LC No. 12-026963-CC

Jane M. Beckering
Judges

The motion for immediate consideration of the motion for stay is GRANTED.

The motion to file a reply to the answer to the motion for stay is GRANTED and the reply filed with the motion is accepted.

The motion for stay is DENIED. Per MCL 213.59(3), "[i]f an order granting interim possession is entered, an appeal from the order . . . shall not act as a stay of the possession order. An agency is liable for damages caused by possession if its right to possession is denied by the trial court or on appeal." While that subsection does not necessarily preclude us from issuing a stay, it does indicate that there must be some ground other than the appeal itself for the issuance of a stay. Defendants have not provided a sufficient ground because if they are successful in the issues they raise in their application for leave to appeal, the remedy is provided under that same subsection: plaintiff will be liable for damages caused by the possession.

The motion for immediate consideration of the application for leave to appeal is GRANTED. Appellee shall submit its answer to the application for leave to appeal no later than 5:00 p.m. on Thursday, December 13, 2012.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

DEC 07 2012

Date


Chief Clerk