

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION—CIVIL

CUSTOMER BANK

Plaintiff

v.

AES PROPERTIES, LLC

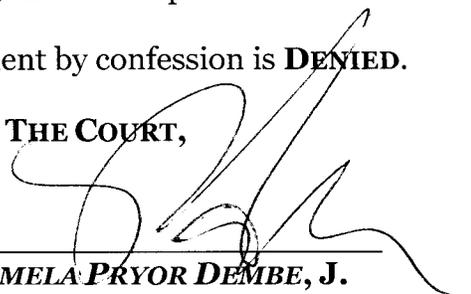
Defendant

:
: November Term, 2014
:
: Case No. 00026
:
:
: Commerce Program
:
: Control No. 14123338

ORDER

AND NOW, this Jan 21 day of January, 2015, upon consideration of the petition to open judgment by confession of defendant, AES Properties, LLC, the response in opposition of plaintiff, Customer Bank, and the respective *memoranda* of law, it is **ORDERED** that the petition to open judgment by confession is **DENIED**.

BY THE COURT,


PAMELA PRYOR DEMBE, J.

DOCKETED

JAN 21 2015

C. HART
CIVIL ADMINISTRATION

Customers Bank Successo-ORDRC



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**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION—CIVIL**

CUSTOMER BANK	:	
	:	November Term, 2014
<i>Plaintiff</i>	:	
	:	Case No. 00026
v.	:	
	:	
AES PROPERTIES, LLC	:	Commerce Program
	:	
<i>Defendant</i>	:	Control No. 14123338

MEMORANDUM OPINION

In Pennsylvania,

[o]ne who petitions to open a confessed judgment must act promptly and offer a meritorious defense.... A petition to open is an appeal to the court's equitable powers and is addressed to the sound discretion of the court.... [T]he discretion exercised by the lower court must be guided by Rule 2959(e), Pa.R.C.P. which states in pertinent part: [i]f evidence is produced which in a jury trial would require the issues to be submitted to the jury the Court shall open judgment. ¹

In this case, petitioner asserts that it is not late on any payments due under the terms of a promissory note. Consequently, petitioner concludes that plaintiff had no power to file the instant complaint in confession of judgment. However, review of the record before this court shows that petitioner has offered no evidence whatsoever in support of its alleged defense. The petition to open judgment by confession is denied because petitioner has proffered no evidence which in a jury trial would require the issues to be submitted to the jury.

¹ Indus. Valley Bank & Trust Co. v. Lawrence Voluck Associates, Inc., 285 Pa. Super. 499, 502-03, 428 A.2d 156, 158 (1981).

In addition, petitioner filed its petition to open judgment by confession on December 23, 2014, fifty-three (53) days after plaintiff filed its complaint in confession of judgment. In Pennsylvania, “[t]he crucial factor in determining whether the petition [to open judgment by confession] is timely is not the specific time which has elapsed, but the reasonableness of the explanation given for the delay.”² In this case, petitioner has offered no explanation for its failure to timely file the instant petition to open judgment by confession. For this additional reason, the petition to open judgment by confession is denied.

BY THE COURT,



PAMELA PRYOR DEMBE, J.

² Lincoln Bank v. C & H Agency, Inc., 500 Pa. 294, 301-02, 456 A.2d 136, 140 (1982).