

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

THOMAS BURKETT,

Plaintiff,

vs.

Case No. 10-2411-JTM

JERRY MUSSETT,

Defendant.

MEMORANDUM AND ORDER

This matter is before the court on the defendant's Motion to Dismiss, which argues that the court is without subject matter jurisdiction over *pro se* plaintiff Thomas Burkett's claim, which is grounded solely on the Kansas Landlord Tenant Act, specifically K.S.A. 58-2553. (Dkt. 13, at 1). Accordingly, no federal question exists. *Nicodemus v. Union Pac. Corp.*, 440 F.3d 1227, 1232 (10th Cir. 2006). Further, plaintiff has acknowledged that both he and defendant are residents of Kansas, precluding any jurisdiction premised on diversity of citizenship. Burkett has filed no response to the Motion. Accordingly, for good cause shown and pursuant to D.Kan.R. 7.4, the defendant's Motion to Dismiss (Dkt. 15) is hereby granted.

IT IS SO ORDERED this 10th day of February, 2011.

s/ J. Thomas Marten  
J. THOMAS MARTEN, JUDGE