

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

City of Philadelphia :
 :
 v. : No. 904 C.D. 2024
 : Argued: May 12, 2026
 Millstone Access, LLC, :
 :
 Appellant :

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
 HONORABLE MICHAEL H. WOJCIK, Judge
 HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE WOJCIK

FILED: September 15, 2026

Millstone Access, LLC (Millstone), appeals from a June 13, 2024 order of the Court of Common Pleas of Philadelphia County (trial court) that imposed a statutory fine and reinspection fees against it for violations of the Philadelphia Property Maintenance Code (Property Maintenance Code).¹ Also before this Court for disposition is the City of Philadelphia's (City) application to quash Millstone's appeal (application to quash). For the reasons that follow, we grant the City's application to quash.

Background

Millstone is a limited liability company that at all times relevant to this action owned property located at 2800 Frankford Avenue in the City. On April 13, 2022, the City commenced an action against Millstone, seeking Millstone's

¹ The Philadelphia Property Maintenance Code may be accessed at: https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-271349 (last visited September 14, 2026).

compliance with the Property Maintenance Code as well as statutory fines and reinspection fees. The trial court held three non-jury hearings on September 21, 2023, November 16, 2023, and June 13, 2024. On June 13, 2024, the trial court entered a final order imposing a statutory fine in the amount of \$250,000 and reinspection fees of \$700.00 for Millstone's violation of the Property Maintenance Code. On July 8, 2024, Millstone filed a motion to vacate the June 13, 2024 order but did not file post-trial motions pursuant to Pa.R.Civ.P. 227.1.² Millstone filed a notice of appeal to this Court on July 10, 2024.

On July 25, 2024, the trial court issued an opinion asserting that Millstone's appeal should be quashed for failure to file post-trial motions and to preserve any issues for appellate review. Citing the case of *Chalkey v. Roush*, 805 A.2d 491, 495 (Pa. 2002), the trial court emphasized that a party must file post-trial motions from a trial court's decision and order following the conclusion of a trial. *See* Pa.R.Civ.P. 227.1(c).³ The purpose of Rule 227.1 is to provide the trial court

² The motion to vacate challenged the trial court's denial of Millstone's request to continue the June 13, 2024 hearing due to the unavailability of witnesses. The motion indicated that if Millstone had been given the opportunity to present witness testimony in a later proceeding, and if "the [trial court] had the opportunity to hear that testimony and supporting documents, it is [Millstone's] belief that the [trial court] would have found that evidence credible and compelling and the [trial court's] [f]inal [o]rder would have been significantly different than the [f]inal [o]rder entered on June 13, 2024." Millstone's Motion to Vacate Judgment, ¶8, Reproduced Record (R.R.) at 195a.

³ Pennsylvania Rule of Civil Procedure 227.1(c) provides:

(c) Post-trial motions shall be filed within ten days after

(1) verdict, discharge of the jury because of inability to agree, or nonsuit in the case of a jury trial; or

(Footnote continued on next page...)

with an opportunity to correct errors in its ruling and avert the need for appellate review. *Warfield v. Shermer*, 910 A.2d 734 (Pa. Super. 2006).⁴ Further, if an issue has not been raised in a post-trial motion, it is waived for appeal purposes. *L.B. Foster Co. v. Lane Enterprises, Inc.*, 710 A.2d 55 (Pa. 1998). Because the docket in this case reflected that post-trial motions were not filed, the trial court reasoned that Millstone did not preserve any appealable issues and that its appeal should be quashed.

The City’s Application to Quash

On August 9, 2024, this Court issued an order acknowledging the trial court’s assertion that Millstone waived all issues on appeal due to its failure to file post-trial motions but noting that “a review of the docket entries indicates that [Millstone] did file a ‘Motion to Vacate Judgment Imposing a Statutory Fine Against [Millstone] on June 13, 2024 and Request for Rehearing’ . . . with the trial court on July 8, 2024.” As such, the Court directed the parties to address whether Millstone failed to preserve any issues for appellate review by “failing to timely file the Motion to Vacate within 10 days of the trial court’s June 13, 2024 order.” The City then filed its application to quash on February 6, 2025.

First, the City argues that Millstone waived all issues on appeal by failing to file post-trial motions. Specifically, the City asserts that Rule 227.1 plainly requires a party to file post-trial motions for relief within ten days after “the filing of

(2) notice of nonsuit or the **filing of the decision in the case of a trial without jury.**

Pa.R.Civ.P. 227.1(c) (emphasis supplied).

⁴ Superior Court decisions are not binding on this Court but may be cited for their persuasive value. *Vasquez v. Berks County*, 279 A.3d 59, 90 n. 23 (Pa. Cmwlth. 2022).

the decision in the case of a trial without jury.” Pa.R.Civ.P. 227.1(c)(2). The City contends that the trial court’s order was a final order that disposed of all claims for relief, thereby triggering the requirement to file post-trial motions under Rule 227.1. According to the City, the order “states on its face that it is final.” City’s Application to Quash at 5 (citing Exhibit H of the Application). The City also notes that the matter was noticed for a non-jury trial. *Id.* (citing Exhibit B of the Application). Finally, at the June 13, 2024 hearing, the City advised that it was only seeking a fine and reinspection fees and would not pursue an additional compliance order. In the City’s view, these circumstances put Millstone on notice that post-trial motions were required. The City maintains that because Millstone has not preserved any issues on appeal, this matter should be quashed. *See Coal Tubin’ PA, LLC v. Cambria County Transit Authority*, 162 A.3d 549, 553 (Pa. Cmwlth. 2017) (failure to preserve any issues via post-trial motions implicates a court’s jurisdiction).

The application to quash further contends that Millstone’s motion to vacate cannot act as a substitute for compliance with Rule 227.1 because the motion was not the substantive equivalent of a post-trial motion. While courts may treat a motion for reconsideration as the substantive equivalent of a post-trial motion where it fulfills Rule 227.1’s issue preservation function, *see Bennett v. Rose*, 183 A.3d 498, 502 (Pa. Cmwlth. 2018); *Arches Condominium Association v. Robinson*, 131 A.3d 122, 129-30 (Pa. Cmwlth. 2015), the City maintains that “Mil[l]stone’s cursory, two-page motion did not attempt to provide the trial court any opportunity to correct potential substantive errors in its decision.” City’s Application to Quash at 7. Instead, the City asserts, the motion to vacate sought reconsideration of the trial court’s denial of a continuance of the final hearing. Moreover, the City notes, the motion to vacate did not include citations to case law or legal standards. Finally,

contrary to the requirements of Rule 227.1(b)(2),⁵ the motion to vacate fails to state where any issue was raised before or during trial. Rather, the motion to vacate relied on new facts and evidence that were not raised at trial.

Even if Millstone’s motion to vacate could be considered the functional equivalent of a post-trial motion, the City argues it was untimely. Rule 227.1(c)(2) requires that post-trial motions be filed within ten days after the filing of the trial court’s final decision. Here, the trial court’s final order was docketed on June 13, 2024, and Millstone’s motion to vacate was filed on July 8, 2024—25 days after the final order. Moreover, the City argues, any remand would be futile because Millstone has not shown good cause for its non-compliance with Rule 227.1.

In response, Millstone argues that the underlying case was not tried as a civil action culminating in a non-jury trial; rather, the matter proceeded as a code enforcement petition action involving a series of “hearings,” not a trial. This is reflected in the trial court’s repeated use of the term “hearing” in its orders entered on September 21, 2023, November 16, 2023, and March 7, 2024. Millstone emphasizes that none of the proceedings below bore the hallmarks of a trial, noting that the June 13, 2024 hearing transcript spans only 24 pages, that there were no opening statements or closing arguments, and that the trial court itself acknowledged that one of the earlier proceedings “was not actually a hearing” but rather a matter of “housekeeping.” Millstone’s Answer to the City’s Application to Quash, ¶13(d).⁶

⁵ This subsection provides that post-trial relief may not be granted unless the grounds therefore are specified in the motion. “The motion shall state how the grounds were asserted in pre-trial proceedings or at trial. Grounds not specified are deemed waived” Pa.R.Civ.P. 227.1(b)(2).

⁶ Although titled “[Millstone’s] Application for Remand Pursuant to Pa.R.A.P. 1925(c),” we will refer to the filing as “Millstone’s Answer to the City’s Application to Quash.”

Millstone relies heavily on our Supreme Court’s decision in *Wolk v. School District of Lower Merion*, 197 A.3d 730 (Pa. 2018), arguing that, as a matter of law, post-trial motions are not required following a series of hearings unless the trial court expressly designates those hearings as the trial and indicates that post-trial motions must be filed. Here, Millstone asserts, the trial court did neither. Indeed, the June 13, 2024 order was labeled a “Final Order,” not “the decision,” and the trial court did not direct that post-trial motions be filed. Thus, Millstone contends that it was entitled to appeal directly from the June 13, 2024 order without filing a post-trial motion under Rule 227.1.

In the alternative, Millstone argues that even if Rule 227.1 applied to these proceedings, its motion to vacate should have been deemed the functional equivalent of a post-trial motion. Millstone cites authority recognizing that mislabeled or irregular post-trial filings may still preserve issues when they substantively seek reconsideration, modification or correction of the trial court’s ruling. *See Linder v. City of Chester*, 78 A.3d 694, 696 (Pa. Cmwlth. 2013) (citing persuasive authority from the Superior Court supporting the principle that courts should be flexible in considering whether filings may be construed as motions for post-trial relief although not styled as such); *Scioli Turco, Inc. v. Prioleau*, 207 A.3d 346, 349 (Pa. Super. 2019) (holding that a motion for reconsideration qualified as a motion for post-trial relief). Millstone asserts that its motion to vacate satisfied this standard because it challenged the trial court’s denial of a continuance and detailed its compliance efforts and witness testimony it wished to present.

Millstone further maintains that the trial court’s characterization of three “hearings” as three “non-jury trials” was erroneous and that the trial court’s conclusion that all issues were waived is inconsistent with both *Wolk* and the flexible

approach endorsed in cases such as *Linder*. Millstone asserts that a narrow, formalistic application of Rule 227.1 should not be permitted to extinguish substantive appellate rights, particularly in cases like this that involve an “atypical” procedural posture dominated by consent decrees and compliance-monitoring hearings.

Discussion

Based on our review of the record, we believe that the City’s application to quash must be granted. Although Millstone attempts to avoid the operation of Rule 227.1 by characterizing the proceedings below as mere “hearings,” and by citing the Supreme Court’s decision in *Wolk*, neither argument is persuasive.

In this regard, we believe that Millstone’s reliance on *Wolk* is misplaced. As the Supreme Court expressly noted, *Wolk* involved injunction practice and the Court’s analysis focused on the interplay between Rule 227.1 and Pennsylvania Rule of Appellate Procedure 311(a)(4).⁷ The central question in *Wolk*

⁷ Pennsylvania Rule of Appellate Procedure 311 addresses interlocutory appeals as of right. Subsection (a)(4)(ii) of the Rule provides that an appeal may be taken as of right from

[a]n order that grants or denies, modifies or refuses to modify, continues or refuses to continue, or dissolves or refuses to dissolve an injunction unless the order was entered:

* * *

(ii) After a trial but before entry of the final order. Such order is immediately appealable, however, if the order enjoins conduct previously permitted or mandated or permits or mandates conduct not previously mandated or permitted, and is effective before entry of the final order.

Pa.R.A.P. 311(a)(4)(ii).

was whether the aggrieved party was required to file post-trial motions before appealing an order granting an injunction that altered the status quo. Those concerns are not raised in this case. The instant action does not involve a preliminary or permanent injunction; rather, it arose from a code enforcement action that culminated in a final order imposing statutory fines and reinspection fees. Nothing in *Wolk* suggests that its guidance relating to the rare circumstance where a preliminary injunction hearing is later deemed to function as the trial was intended to displace Rule 227.1's requirements in ordinary civil enforcement actions like the one before us.

Here, the record reflects that the trial court treated the June 13, 2024 proceeding as the final adjudication of the remaining issues in the case. The matter had been noticed for a non-jury trial; the June 13 hearing addressed the City's request for fines and reinspection fees; and the resulting order expressly stated that it was a "Final Order" disposing of all claims for relief. In turn, those circumstances triggered Rule 227.1(c)(2)'s requirement that any party seeking to challenge the trial court's determinations must file post-trial motions within ten days.

Even if we were to treat Millstone's motion to vacate as the functional equivalent of post-trial motions, the fact remains that it was untimely. Millstone filed its motion to vacate on July 8, 2024, 25 days after the trial court's June 13, 2024 final order. Rule 227.1(c)(2) clearly requires that post-trial motions be filed within ten days. The post-trial motion requirements set forth in Rule 227.1 are mandatory in both law and equity matters. *Triple Crown Corporation, Inc. v. Lower Allen Township*, 327 A.3d 748, 754 (Pa. Cmwlth. 2024). A party filing untimely post-trial motions takes the risk that the trial court will not address the merits of the issues raised in the motions. *Coyne v. County of Allegheny*, 566 A.2d 378, 380 n. 3

(Pa. Cmwlth. 1989). Furthermore, where a party fails to file timely post-trial motions after a bench trial, no issues are preserved for this Court to review. *Liparota v. State Workmen's Insurance Fund*, 722 A.2d 253, 256 (Pa. Cmwlth. 1999).

The City squarely raised this timeliness defect and, critically, Millstone does not address it at all in its answer to the application to quash. Millstone's silence is telling. While it devotes its argument to whether the motion to vacate should be considered the functional equivalent of a post-trial motion, it completely ignores that, even under its own theory, the motion was indisputably filed outside the ten-day period.

Conclusion

Because Millstone failed to file any timely post-trial motions, no issues were preserved for appellate review. *Chalkey*, 805 A.2d at 497; *Coal Tubin'*, 162 A.3d at 553. Accordingly, the City's motion to quash is granted and this matter is dismissed.

MICHAEL H. WOJCIK, Judge

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City of Philadelphia	:	
	:	
v.	:	No. 904 C.D. 2024
	:	
Millstone Access, LLC,	:	
	:	
Appellant	:	

ORDER

AND NOW, this 15th day of September, 2026, the City of Philadelphia's Application to Quash is GRANTED. Millstone Access, LLC's appeal is DISMISSED with prejudice.

MICHAEL H. WOJCIK, Judge