

IN THE MUNICIPAL COURT OF JACKSON COUNTY, OHIO

ROBIN O'CONNOR,
Plaintiff-Tenant

Case No. 00 CVG 01

vs

VIOLET MAYNARD,
Defendant-Landlord

DECISION & ORDER

This matter came on for hearing this 22nd day of March 2001. Present were the Defendant-Landlord, Violet Maynard, representing herself, and the Plaintiff-Tenant, Robin O'Connor with her attorney, James Buchanan.

The Plaintiff-Tenant files a rent escrow case in this Court alleging that the hot water heater over heated, the kitchen oven did not work, that the screens in the windows were torn, the refrigerator ran irregularly, that the wiring was all messed up, the back door leaked, and there was a gas leak. The Plaintiff-Tenant did not list any problems with the heat in her list of concerns.

The Plaintiff-Tenant testified that she was able to use the hot water heater by simply turning off the breaker when it was not in use thus enabling her to continue to use it. The kitchen stove burners worked, the oven did not. The screens were torn when she rented the premises. The refrigerator ran irregularly causing loss of some products. The Plaintiff-Tenant was not able to explain how the "messed up wiring" affected her rental of the premises. The back door leaked. There was a gas leak that required the kitchen stove pilot light to be lit each time it was used.

The Defendant-Landlord testified that she did attempt to correct the problems as she was told of them. The rent was \$275.00 per month.

The Ohio Supreme Court addressed the issue measuring the damages to the rental premise when the landlord breaches his/her duty to maintain the premise and the tenant does not make the repairs, in Miller v Ritchie (1989) 45 Ohio St.3d 222. The court stated:

“Where a landlord breaches a duty to maintain rental property and the tenant does not make the repairs, the measure of damages is the difference between the rental value of the property in its defective condition and what the rental value would have been had the property been maintained. Smith v Padgett (1987), 32 Ohio St.3d 344, paragraph one of the syllabus. Rarely, if ever, will a defective rental property have a value of zero.”

“ In Smith, we reserved the possibility of using a reduction-in-use measure of damages in an appropriate case. This second opportunity (to examine damage issues in a landlord-tenant dispute) prompts us to conclude that reduction-in-use is not a satisfactory measure. Evidence showing reduction-in-use is relevant. But damages should be computed by measuring the effect of such reduction-in-use (together with any other defect in the leasehold) on the rental value of the property.”

“ . . . The stipulated rent amount is presumptive evidence of the rental value of the property without defects. Smith, supra. . .the finder of fact (The judge or jury) must determine the monetary amount by which the defects and the reduction in use have lessened the value of the leasehold.”
Id. 226-227.

The stipulated rent is \$275.00 per month. How much has this monetary amount been reduced by the defects, if any? The hot water heater could still be used for its intended purpose. This complaint does not reduce the rental value. The screens were torn when she moved in. This defect also does not affect the rental value. Furthermore, the leak at the back door does not affect the rental value.

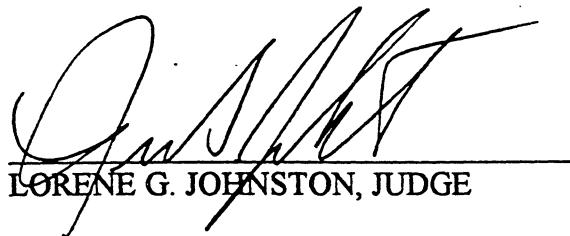
However, the refrigerator and the gas leak do affect the value of the rent. A tenant who does not have a refrigerator or stove and rent a premise with a refrigerator and stove has a right to expect them to properly run. The Plaintiff-Tenant was denied these services for six (6) months.

How much should the rent be reduced by these defects? These defective changes this

premise from one with a stove and refrigerator to one without. The Court finds that this reduces the value by \$50.00 per month. Plaintiff-Tenant has deposited with the Court two (2) months of rent for a total of \$550.00.

It is therefore the ORDER of this Court that the Plaintiff-Tenant receives from the escrow account the amount of \$300.00 as the value in the reduction in her rent and the remaining moneys of \$250.00 be given to the Defendant-Landlord.

SO ORDERED.



LORENE G. JOHNSTON, JUDGE

cc: Violet Maynard
James Buchanan