

IN THE CLEVELAND MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO
HOUSING DIVISION

RICHARD E. SCHUAB
423 EAST 200TH STREET
EUCLID, OHIO 44119

PLAINTIFF

VS.

GEORGE M. ROPER, ET. AL.
17926 INGELSIDE ROAD
CLEVELAND, OHIO 44119

DEFENDANT

) CASE NUMBER 90 CVG 26859

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) LANDLORD-TENANT

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) REFEREE'S REPORT AND RECOMMENDATION

This case came on to be heard on September 26, 1991 before Referee Barbara A. Reitzloff, to whom this case was assigned by Judge William H. Corrigan pursuant to Ohio Civil Rule 53, to take evidence on Plaintiff's Application for Attorney Fees.

Attorney for plaintiff in court

Defendant not in court nor represented by counsel.

FINDINGS OF FACT

1. Journal Entry of May 15, 1991 provided in part:

(B) Judgment of reasonable attorney fees in favor of attorney for plaintiff against defendants to the extent of service performed in obtaining that part of judgment relating to violation of Ohio Revised Code 5321.05...

2. On May 24, 1991, attorney for plaintiff submitted an itemized account of his fees and expenses showing 21.25 hours expended through May 15, 1991 at the rate of One Hundred Dollars (\$100.00) per hour. His itemization also included a request for compensation for expenses (mileage \$56.25; parking \$20.00; court costs \$38.00) in the amount of One Hundred Fourteen Dollars and Twenty-Five Cents (\$114.25).

3. At the September 26, 1991 hearing attorney for plaintiff testified regarding the May 24, 1991 itemization. He attributed the hours in the itemization after November 11, 1990 to the claims involving defendant's violation of Revised Code 5321.05. This eliminated 5.0 of the 21.25 hours, leaving 16.25 hours through May 24, 1991.

4. At the September 26, 1991 hearing attorney for plaintiff submitted an additional itemization of his time and expenses from May 16, 1991 through September 23, 1991, totaling 5.7 hours and including expenses in the amount of Thirty-Nine Dollars and Seventy-Five Cents (\$39.75) (mileage \$33.75; parking \$6.00). Additionally, attorney for plaintiff requested compensation for 2.5 hours for the September 26, 1991 hearing and compensation for his witness, as described below.

5. At the September 26, 1991 hearing attorney for plaintiff called as a witness Robert J. Foulds. Mr. Foulds testified that he is an attorney licensed in the State of Ohio; that he is familiar with practice in the area of landlord/tenant law and the prevailing rates of attorneys practicing in that area; and that attorneys practicing in the landlord/tenant area generally receive Seventy-Five Dollars (\$75.00) to One Hundred Twenty-Five Dollars (\$125.00) per hour for their services. Mr. Foulds testified that he is entitled to compensation at the rate of Ninety Dollars (\$90.00) per hour for his services as a witness for attorney for plaintiff.

CONCLUSIONS OF LAW AND FACT

Attorney for plaintiff is entitled to compensation for time spent on the portion of plaintiff's second cause of action relating to defendant's violation of Revised Code 5321.05. Plaintiff's second cause of action included both a claim for unpaid rent and the violation of Revised Code 5321.05. It is therefore difficult to determine with great accuracy the exact amount of time

spent on the Revised Code 5321.05 claim. Plaintiff seeks compensation for 24.45 hours of time. Due to the claim for back rent, a reduction of one fourth of the hours claimed or 6.11 hours is reasonable. At the rate of One Hundred Dollars (\$100.00) per hour, attorney for plaintiff is therefore entitled to compensation in the amount of One Thousand Eight Hundred Thirty-Four Dollars (\$1,834.00).

Attorney for plaintiff has offered no authority for his request for compensation for parking nor for the fees of his witness in excess of the fee of Six Dollars (\$6.00) provided by statute, and the court is unaware of sufficient authority for such award. Furthermore, considering the amount of time spent by attorney for plaintiff, along with the amount of the judgment recovered by plaintiff (\$4,354.00), fees in the amount of One Thousand Eight Hundred Forty Dollars (\$1,840.00) represents a reasonable attorney fee.

JUDGMENT

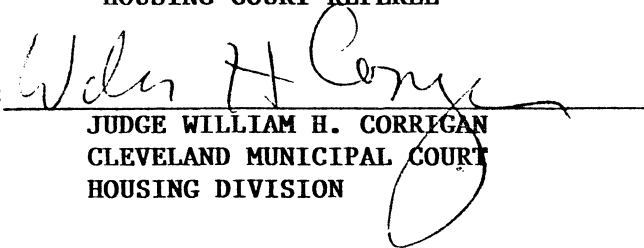
Judgment for attorney for plaintiff against defendant in the amount of One Thousand Eight Hundred Forty Dollars (\$1,840.00) pursuant to Revised Code 5321.05(C).

RECOMMENDED:



BARBARA A. REITZLOFF
HOUSING COURT REFEREE

APPROVED:



JUDGE WILLIAM H. CORRIGAN
CLEVELAND MUNICIPAL COURT
HOUSING DIVISION

SERVICE

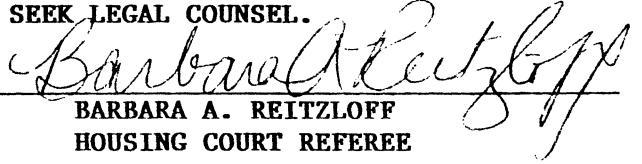
A copy of the Referee's Report was sent by ordinary United States to the Plaintiff's Attorney Raymond J. Schmidlin, Jr., 5834 Mayfield Road, Mayfield Heights, Ohio 44124 and to the Defendant, George M. Kimberly A. Roper,

17926 Ingleside Road, Cleveland, Ohio 4119 and to the Defendant's Attorney

Richard W. Meyers, Hyatt Legal Services 7655 Mentor Avenue, Mentor, Ohio 44060.

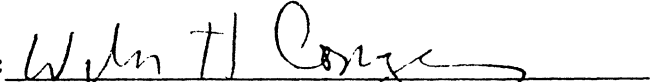
IN ORDER TO BE CONSIDERED, ALL OBJECTIONS TO THE REFEREE'S REPORT MUST BE IN WRITING WITHIN FOURTEEN (14) DAYS OF FILING AND MUST COMPLY WITH THE OHIO RULES OF PROCEDURE AND THE LOCAL RULES OF THIS COURT. FOR FURTHER INFORMATION, CONSULT THE ABOVE RULES OR SEEK LEGAL COUNSEL.

RECOMMENDED:



BARBARA A. REITZLOFF
HOUSING COURT REFEREE

APPROVED:



JUDGE WILLIAM H. CORRIGAN
CLEVELAND MUNICIPAL COURT
HOUSING DIVISION