

IN THE CLEVELAND MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO
HOUSING DIVISION

ROBERT G. SVOBODA)	CASE NUMBER 90 CVG 35237
17825 EASTPARK DRIVE)	
CLEVELAND, OHIO 44119)	
)	
PLAINTIFF)	
)	
VS.)	<u>LANDLORD-TENANT</u>
)	
MARTIN J. AND ANNE HAYES)	
17823 EASTPARK DRIVE)	
CLEVELAND, OHIO 44119)	
)	
DEFENDANT)	<u>REFEREE'S REPORT AND</u>
)	<u>RECOMMENDATION</u>

This case came to be heard on December 3, 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 in court with counsel.

FINDINGS OF FACT

1. The Journal Entry of August 19, 1991 provided in part:

(B) Judgment for reasonable attorney fees in favor of the attorney for plaintiff against defendant to the extent of services performed in obtaining judgment relating to Revised Code 5321.05...

2. On October 16, 1991, attorney for plaintiff submitted an itemized account of his fees and expenses showing 5.2 hours

expended through September 7, 1991 at a rate of One Hundred Dollars (\$100.00) per hour. His itemization also included a request for reimbursement for court costs of Thirty-Eight Dollars (\$38.00).

3. At the December 3, 1991 hearing, attorney for plaintiff testified regarding the October 16, 1991 itemization. He attributed the hours in the itemization to the claims involving defendant's violation of Revised Code 5321.05. Attorney for plaintiff also testified that he has been licensed to practice law in the State of Ohio since May 1985, and requested compensation at the rate of One Hundred Dollars (\$100.00) per hour.

4. At the December 3, 1991 hearing, attorney for defendant declined to cross-examine attorney for plaintiff regarding the hours claimed by attorney for plaintiff. Defendant's counsel did state that the One Hundred Dollars (\$100.00) per hour rate may be somewhat higher than reasonable. Defendant also requested a reduction in the fees sought based upon the amount of the judgment granted to plaintiff, Six Hundred Fifty Dollars (\$650.00), and the fact that some time was incurred as a result of a calculation error of the court which necessitated the filing of objections by defendant.

CONCLUSION 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 damages. It is therefore difficult to determine with great accuracy the exact amount of time spent on the Revised Code 5321.05 claim. Attorney for plaintiff seeks compensation for 5.2 hours of time. Due to the claim for unpaid rent, a reduction of approximately one fourth of the hours claimed for the preparation and filing of the complaint and amended complaint (.75 hours) and for attendance at trial (3 hours) is reasonable, for a reduction of 1 hour. The remaining time, 4.2 hours, is compensable.

Defendant urges this court to consider the circumstances of the case, including the amount of the judgment recovered by plaintiff when determining a reasonable attorney fees.

The court may consider a number of factors when assessing the reasonableness of an attorney's fee. These factors included the amount of the judgment recovered. Drake v. Menczer (1980) 67 Ohio App.2d 122, 125 (citing DR 2-106 (B). Code of Professional Responsibility).

In the a instant case, the plaintiff recovered judgment in the amount of Six Hundred Fifty Dollars (\$650.00) on the Revised Code 5321.05 claim with the reduction in fees as described above, attorney for plaintiff is entitled to fees in the amount of Four Hudred Twenty Dollars (\$420.00), approximately two thirds the amount of the judgment rendered. This is a reasonable attorney's fee, in light of the judgment obtained.

Attorney for plaintiff includes in his fee statement the Thirty-Eight Dollars (\$38.00) filing fee. As the judgment of August 19, 1991 assessed court costs against defendant, it is

neither necessary nor proper to include this amount in the fee award.

JUDGMENT

Judgment for attorney for plaintiff, William C. Weirich, against defendant in the amount of Four Hundred Twenty Dollars (\$420.00) pursuant to Revised Code 5321.05.

RECOMMENDED: 

BARBARA A. REITZLOFF
HOUSING COURT REFEREE
CLEVELAND MUNICIPAL COURT

APPROVED: 

JUDGE WILLIAM H. CORRIGAN
CLEVELAND MUNICIPAL COURT
HOUSING COURT

SERVICE

A copy of the Referee's Report was sent by ordinary United States mail to the Attorney, William C. Weirich, 673 East 185th Street, Cleveland, Ohio 44119 and to the Defendants, Attorney, Scott R. Stefl, Harbor House, 7844 Lakeshore Blvd., Mentor, Ohio 44060 this 23rd day of December 1991.

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 CIVIL PROCEDURE AND THE

LOCAL RULES OF THIS COURT. FOR FURTHER INFORMATION, CONSULT
THE ABOVE RULES OF SEEK LEGAL COUNSEL.

RECOMMENDED: 

BARBARA A. REITZLOFF
HOUSING COURT REFEREE
CLEVELAND MUNICIPAL COURT

APPROVED: 

JUDGE WILLIAM H. CORRIGAN
CLEVELAND MUNICIPAL COURT
HOUSING COURT