

2. In June 1991 and August 1991, plaintiff served defendant with a notice of termination and notice to vacate, respectively. Service of notice was completed in accordance with the lease and state law.

3. Plaintiff has alleged three grounds for defendant's eviction: (1) unauthorized resident; (2) disturbances; and (3) destroying property.

4. Witnesses for the plaintiff testified that the alleged unauthorized occupant is William Cowlin, who plaintiff alleges to be defendant's boyfriend.

5. Plaintiff also presented testimony from security officers employed by plaintiff. These witnesses testified that they were called to the rental premises on at least three occasions in April and May 1991, due to domestic disturbances. Upon arrival they found Mr. Cowlin involved in altercations with defendant, and had to restrain Mr. Cowlin. On at least one occasion, Mr. Cowlin was charged with aggravated disorderly conduct. The officers testified that on the majority of these occasions that it appeared that Mr. Cowlin had forced his way or broken into the premises.

6. Plaintiff also presented testimony regarding a fire at the rental premises on or about July 2, 1991. According to inspectors, on that date, a fire was intentionally set in the rental unit, using an accelerant. The unit was destroyed by the fire. Plaintiff received from defendant a note, which defendant identified as being from Mr. Cowlin. The author of the note threatened defendant, and, in the note, vowed to set the rental premises on fire.

7. Plaintiff produced no evidence that defendant herself set the fire at the rental premises.

8. Defendant herself offered testimony regarding her relationship with Mr. Cowlin. She testified that she and Mr. Cowlin were involved in a dating relationship until February 1991. Mr. Cowlin came to the rental

premises on occasions after the termination of their relationship. On the majority of those occasions, Mr. Cowlin was uninvited, and forced his entry to the premises. Mr. Cowlin's visits became violent altercations, requiring the intervention of plaintiff's security force.

9. Defendant also testified that in June 1991, she prosecuted Mr. Cowlin for domestic violence. Mr. Cowlin was convicted and sentenced to jail. After his release in July 1991, defendant received the threatening note introduced by plaintiff, and subsequently her rental unit was set on fire. Defendant provided the note to plaintiff to cooperate with the investigation of the fire. Plaintiff rehoused defendant in another unit. Defendant testified that she sought legal assistance to obtain a restraining order against Mr. Cowlin, but was advised that she could not obtain such an order because she was never married to Mr. Cowlin, never lived with him, and had no children as a result of their relationship.

CONCLUSION OF LAW AND FACT

Plaintiff's allegations all deal with the presence and conduct of defendant's former boyfriend, Mr. Cowlin. Plaintiff alleges that Mr. Cowlin is an unauthorized resident of the rental premises. This is not supported by the evidence.

The remaining allegations regarding disturbances and destruction of property also arise from conduct of Mr. Cowlin. Defendant testified credibly that when altercations took place in April and May 1991, Mr. Cowlin was not at the premises as defendant's guest, as this was after the termination^a of their relationship. In addition, defendant attempted to secure/restraining order against Mr. Cowlin but was advised that she could not do so. Mr. Cowlin certainly was not an invited guest when he, after his release from jail, left defendant a threatening note and later, it appears, burned out defendant's

apartment. The conduct of this uninvited assailant is not attributable to the defendant, and so does not constitute a violation of her lease.

Defendant is a woman who has been the victim of a pattern of abuse by her former boyfriend, Mr. Cowlin. In June 1991, she took a major step toward altering her situation when she prosecuted Mr. Cowlin. While she could possibly benefit from the assistance and advice of an agency such as Witness-Victim Services, her conduct does not justify her eviction from the premises.

JUDGMENT

Judgment for defendant on plaintiff's first cause of action.

RECOMMENDED:

Barbara A. Reitzloff

BARBARA A. REITZLOFF
HOUSING COURT REFEREE

APPROVED:

William H. Corrigan

JUDGE WILLIAM H. CORRIGAN
CLEVELAND MUNICIPAL COURT
HOUSING DIVISION

SERVICE

A copy of the Referee's Report was sent by ordinary United States mail to the Plaintiff's Attorney, Michael L. Nelson, 75 Public Square, Suite 1210, Cleveland, Ohio 44113 and to the Defendant, Evonne Overton, 2604 Division Apt, #480, Cleveland, Ohio 44113 this ^{14th} day of November 1991.

RECOMMENDED:

Barbara A. Reitzloff

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HOUSING COURT REFEREE

APPROVED:

William H. Corrigan

JUDGE WILLIAM H. CORRIGAN
CLEVELAND MUNICIPAL COURT
HOUSING DIVISION