

IN THE DAYTON MUNICIPAL COURT

CIVIL DIVISION

DAVID L. CAMP JR. : CASE NO: 06 CVF 9711  
Plaintiff, : (MAGISTRATE ROBERTS)  
Vs. :  
NEIL THOMAS : ENTRY GRANTING PARTIAL  
Defendant. : SUMMARY JUDGMENT  
: TO PLAINTIFF AND SETTING  
: FOR A DAMAGES HEARING

---

This matter comes before the Court on Plaintiff's Motion for Summary Judgment and Defendant's Response.

In his Motion for Summary Judgment, Plaintiff David Camp Jr. claims that he paid Defendant rent in excess of the amount due on his DMHA housing. Plaintiff has attached a copy of his Affidavit stating that his total Section 8 rent was \$355; his tenant portion of the rent was \$57; and in June, 2005 through March, 2006, Defendant requested that he pay more than \$57 a month and he paid Defendant \$2,471 excess rent. The Section 8 Housing Voucher Program Lease Agreement; the HAP Contract; and the HUD Voucher were also attached and incorporated into Defendant's Affidavit.

In his Response, Defendant claims that Plaintiff signed a rental application agreement and Lease Agreement for June, 2005 through May, 2006 with a rental payment of \$675 a month; Plaintiff was not forced to pay that amount of rent and paid it willingly; Plaintiff signed the Lease Agreement after he received his Section 8 Housing voucher for \$355 a month and separately from the HAP Contract, knowing that he was agreeing to pay between \$250 to \$377 per month; when the property was inspected for recertification in March, 2006, Plaintiff was terminated from the Section 8 program; and Plaintiff vacated in

March, 2006 and owes Defendant \$1,785.23 for damages to the house and unpaid utility and water bills. Defendant attached a copy of his Lease Agreement, the Rental Application, the Notice from DMHA that tenant assistance is being terminated and that the HAP Contract would be honored until May, 2006; and invoices for electric services and carpet, plus a service history statement showing unpaid services for the property.

Defendant separately filed his Answer to Plaintiff's Request for Admissions and Interrogatories, where he stated that Plaintiff's rent payments were a mutual agreement between the parties and described the damage Plaintiff allegedly did to the premises.

The Court has reviewed the lease agreements and the law in this matter and finds that the Section 8 Housing Voucher Program Lease Agreement is the binding agreement between the parties. This Agreement provides in Paragraph 3 that the tenant agrees to pay \$57 rent per month and this rent is the maximum amount the tenant can be required to pay as rent. Paragraph 5 provides that extra or side payments in excess of the tenant's share of rent are prohibited. Paragraph 8 provides that the tenant shall pay for water and utility services, except for air conditioning. Paragraph 13 provides that the tenant shall be charged for any damage the tenant, his family, or guests caused to the premises.

The Court grants Partial Summary Judgment to Plaintiff on his claim for excess rent. The matter must be set for a Damages Hearing because Defendant has presented genuine issues regarding damage to the property and unpaid utility and water bills. *Oliver v. Cuyahoga Metropolitan Housing Authority* (Sept. 14, 2000), 8<sup>TH</sup> App. Dist. No. 76923, 2000 WL 1300163.

Notice of the place, date, and time of the Damages Hearing shall be sent to the parties.

\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
MAGISTRATE CHRISTOPHER ROBERTS

THE COURT HEREBY ADOPTS THE MAGISTRATE'S DECISION:

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, positioned over the judge's signature line.

A party shall not assign as error on appeal the Court's adoption of any factual finding or legal conclusion in the Magistrate's Decision, whether or not specifically designated as a Finding of Fact or Conclusion of Law, unless the party timely and specifically objects in writing to that factual finding or legal conclusion within fourteen (14) days of the filing of the Decision, as required by Civil Rule 53(D)(3)(b).

Copies to: Michelle Atkinson, Attorney for Plaintiff

Neil Thomas, Defendant