

**IN THE MUNICIPAL COURT OF JACKSON COUNTY, OHIO**

TEENA DICKSON, ET AL.,  
Plaintiff

Case No. 06 CVG 288

VS

**Damage Forcible Entry and Detainer**

BRANDY LANCASTER  
AND  
DANIEL RADCLIFF,  
Defendants

**FILED**

MAY 18 2006

JACKSON CO. MUNICIPAL CRT  
Kimberly A. Riegel, Clerk

This cause came on for hearing this 11<sup>th</sup> day of May, 2006 upon the Second Cause of Action in the Complaint of Plaintiffs, the Defendants, having been given notice of said hearing at the initial hearing on April 20, 2006.

Present at this hearing were the Plaintiffs, representing themselves and the Defendant, Brandy Lancaster with her attorney, Michael Gibbons-Camp. Defendant, Daniel Radcliff, although given notice, failed to appear.

Based on the Complaint, the exhibits, and the testimony of the witnesses, the Court makes the following findings of fact and conclusions of law and **ORDER**.

**FINDINGS OF FACTS**

1. Defendants are persons subject to forcible entry and detainer action.
2. Notice containing the statutory language printed or written in a conspicuous manner has been served on the defendants as required by statute.
3. The Complaint herein described the premises entered upon and detained and sets forth an unlawful and forcible entry and / or detention by the defendants.

4. The Defendant, Brandy Lancaster, filed an answer raising the following defenses:
  - a. set off against rent for damage to roof and ceiling
  - b. plaintiffs failure to keep premises fit and habitable
  - c. plaintiffs request for liquidated damages is illegal and unenforceable
  - d. Late fees are unconscionable and unenforceable.
5. Defendant, Daniel Radcliff, did not raise any answer and / or counterclaims
6. Defendants did not have a security deposit.
7. During the tenancy the one year old roof began to leak, the plaintiffs attempted to repair the roof but was not successful during the winter months. The roof leaked for approximately four months. There are six rooms in the apartment. Only one ceiling was affected by the leak. The Defendant, Brady Lancaster, did not mitigate the leaking by attempting to move the ceiling tiles. Eventually the ceiling fell and the room could no longer be used for approximately four months.
8. The Plaintiffs withdraw their claims for liquidated damages.

#### CONCLUSIONS OF LAW

Defendants are guilty of forcible entry and / or detainer of the premises located at 132 East Second Street, Apt C, Wellston, OH. The Court finds the allegation of the Complaint as amended by testimony, to be true and that Defendants are in arrears of rent for the period between January 10, 2006 and April 10, 2006 in the total amount of One Thousand Two Hundred Dollars (\$1,200.00), and that Plaintiffs are entitled to immediate possession of the premises at 132 East Second Street, Apt, Wellston, Ohio.

Further, Plaintiffs are entitled damages to the premises for the cleaning repairs and

damages in the amount of Three Hundred Sixty-six and 98/100 Dollars(\$ 366.98).

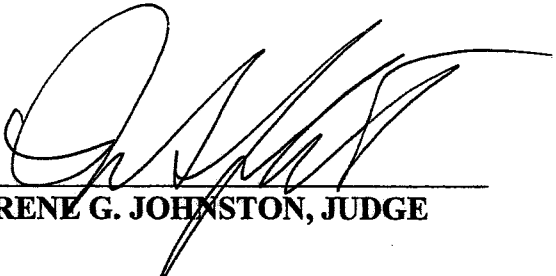
Furthermore, in an eviction action for nonpayment of rent, the defendant, Brandy Lancaster, may have a monetary claim against the plaintiffs being a common law set-off against rent due for repairs made by the defendant on a defective condition. However, the Defendant, Brandy Lancaster, testimony did not establish any repairs she did that should be used as an off-set. Therefore, Defendant, Brandy Lancaster's answer alleging an off-set has not been established by a preponderance of the evidence.

Further, Defendant, Brandy Lancaster has requested an off-set on rent due for the plaintiffs failure to keep premises fit and habitable. The monthly rent was Four Hundred Dollars for six rooms or each room being \$66.66 per month. This would total an off set of \$266.67 for the four months.

The Defendant, Brandy Lancaster, is entitled to an off-set against rent of \$266.67.

It is, therefore, ordered and considered that judgment be, and it is hereby entered in favor of the Plaintiffs against the defendants in the principal sum of One Thousand Three Hundred and 31/100 Dollars (\$1,300.31), with six percent (6%) interest thereon from this date, and court cost.

**SO ORDERED.**



LORENE G. JOHNSTON, JUDGE

cc: Plaintiffs  
Defendants  
Attorney Gibbons-Camp