

IN THE MUNICIPAL COURT OF JACKSON COUNTY, OHIO

KIM WOODS,
Plaintiff

FILED Case No. 01 CVG 444

vs

AUG 05 2001

DECISION

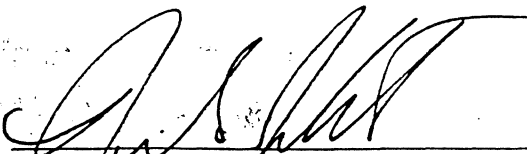
DANNY COLEMAN, JACKSON CO. MUNICIPAL CRT.
Defendant Kimberly A. Riegel, Clerk

This matter came on for hearing upon the testimony given and the briefs submitted to the Court on Plaintiff's Complaint seeking a permanent injunction and damages.

The Court finds that the Plaintiff's complaint is **WELL TAKEN**. The Court finds that the Plaintiff has met her burden and that a permanent injunction will issue as prayed for. Further, the Court finds that the Plaintiff is entitled to the following damages:

1. The rental value of the premises during the time it was without water is \$50.00 per month for the six months she was without water. She is entitled to an outset accordingly against the rent due.
2. The Plaintiff is entitled to damages for the lack of water being \$55.00 per month as payment to Ruby Woods for use of her water and mileage for transportation of water totaling 2,080 miles at .29 cents per mile for a total of \$603.20.
3. The Plaintiff is entitled to an award of \$5,000 for emotional distress suffered.

Furthermore, Attorney for the Plaintiff is directed to prepare a judgment entry reflecting the Court's Decision and submit said entry to the Court within 14 days.


LORENE G. JOHNSTON, JUDGE

IN THE JACKSON COUNTY MUNICIPAL COURT
JACKSON, OHIO

KIM WOODS
3509 Monroe Hollow Road
Oak Hill, Ohio 45656

FILED

Plaintiff,

Case No. 01 CVG 444

AUG 20 2001

Judge JOHNSTON

-vs-

JACKSON CO. MUNICIPAL CRT.
Kimberly A. Riegel, Clerk JUDGMENT ENTRY

DANNY COLEMAN
3509 Monroe Hollow Road
Oak Hill, Ohio 45656,

Defendant.

This matter came before the court on June 13, 2001, for a full hearing on Plaintiff's Complaint seeking a permanent injunction and damages for occurrences arising out of the parties' residential lease agreement, and for a show cause hearing on Plaintiff's motion to find Defendant in contempt of court. Present at the June 13, 2001 hearing were Plaintiff, Kim Woods, represented by counsel Benjamin Horne and Jim Buchanan, and Defendant Danny Coleman, appearing pro se.

Plaintiff proved by a preponderance of the evidence that she entered a rental agreement with Defendant - Landlord Danny Coleman in November, 2000, for the residence at 3509 Monroe Hollow Road, Oak Hill, Ohio. The \$350 monthly rental fee was paid for the months of November, 2000, through February, 2001. In January, 2001, the septic tank at the residence backed up and Defendant terminated water service to the residence. Plaintiff's residence had no running water or working toilet from January, 2001, through June, 2001. Defendant-landlord was notified of these conditions by Plaintiff and the Jackson County Health Department, but Defendant declined to make repairs or provide running water to Plaintiff's residence. Plaintiff and her family traveled daily to the residence of Plaintiff's mother-in-law to shower, do laundry, and fill containers with water to bring back to

Plaintiff's residence for cooking, cleaning, and drinking. Plaintiff paid her mother-in-law fifty-five dollars per month for the water usage.

Plaintiff relied on neighbors, relatives, and the facilities of a public rest area for their bathroom needs. Ms. Woods and her daughter testified that the children suffered from the flu at times during the six months, and that the night time visits to the public rest area often put them in fear. They further testified to the anxiety and humiliation of living in a home without a working toilet, and of having to repeatedly ask to use the bathrooms of neighbors and relatives. Plaintiff also testified to the distress caused by the regression in toilet training that her three year old son suffered during this period. Plaintiff gave opinion testimony that the fair rental value of the property for this period was fifty dollars per month. This credible testimony was uncontradicted.

On April 17, 2001, this court issued a Temporary Restraining Order that Defendant take whatever action necessary to remedy the backed up septic system and restore running water to Plaintiff's residential premises. On April 26, 2001, this court issued an Order and Preliminary Injunction that enjoined Defendant from refusing to remedy the septic system, supply running water to Plaintiff's residence, and comply with Ohio's Landlord-Tenant law and Jackson County's Sanitary Housing Regulations. Defendant was ordered to make repairs, provide water, and bring the residence into compliance with state and county law by May 7, 2001. At the June 13, 2001 Show Cause Hearing on Plaintiff's motion to find Defendant in contempt of court, Defendant was found to have not followed the April 26, 2001 Order, and thereby to be in contempt of court. Defendant was ordered to be incarcerated in the Jackson County Jail until he complied with the order to the satisfaction of Jackson County Health Department Sanitarian, Mindy Dalton. Defendant remained incarcerated from June 13, 2001 until June 29, 2001, when Ms. Dalton determined that the problems with the residence

had been adequately remedied.

The Court finds that Defendant's refusals to provide running water and a working toilet to his tenant's residence constituted violations of Ohio Revised Code § 5321.04(A)(2), (4), and (6). Testimony from Jackson County Health Department Sanitarian Mindy Dalton showed that Defendant had failed to comply with the requirements of Jackson County Health Department Regulations in violation of Ohio Revised Code §5321.04(A)(1).

As previously found in the Order and Preliminary Injunction filed in this court on April 26, 2001, and incorporated herein by reference, Plaintiff has met the burdens of Ohio Civil Rule 65 in her prayer for a permanent injunction.

The Court finds that Plaintiff has paid \$700 in rent for the months of January, 2001, and February, 2001, when the fair rental value of the residence was \$50 per month. Plaintiff is therefore entitled to a \$600 offset against rent due for the months of March - June (four months at \$50 per month, or \$200), and the months of July and August (two months at \$350 per month, or \$700). The rent Plaintiff currently owes Defendant for the period of March 2001 through August 2001 is therefore \$300.

The Court also finds that Plaintiff is entitled to compensatory damages in the amount of \$55 per month to compensate Plaintiff for the money she paid to Ruby Woods for the six months without water (\$330), as well as compensation for 2,080 miles of driving incurred due to the lack of water at the rate of twenty-nine cents per mile (\$603.20), for a total of \$933.20. Subtracting the \$300 for rent owed yields a total of \$633.20 in compensatory damages owed to Plaintiff.

Finally, the Court finds that Defendant knew or should have known that his failure to fulfill his statutory duties under Ohio Revised Code §5321.04 would cause Plaintiff and her family to suffer

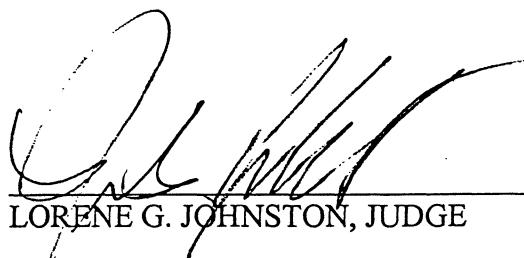
emotional distress. Defendant's refusal to take any steps to relieve Plaintiff and her family of the lack of a working toilet and working plumbing was so extreme and outrageous as to go beyond the bounds of decency, and could be considered utterly intolerable in a civilized community. Defendant's failure to fulfill his duties under Ohio's Landlord-Tenant law were the proximate cause of serious emotional distress suffered by Plaintiff and her family. Therefore, Plaintiff is entitled to damages for emotional distress in the amount of \$5,000.

It is therefore ORDERED, ADJUDGED, AND DECREED that:

- 1) Defendant Danny Coleman is permanently enjoined from refusing to comply with his duties under Ohio's Landlord - Tenant law.
- 2) Defendant shall pay Plaintiff damages in the amount of \$5,633.20, plus 10% interest from the date of this Entry.
- 3) Defendant shall pay the costs of this action.

IT IS SO ORDERED.

9-20-01
DATE


LORENE G. JOHNSTON, JUDGE

Submitted by:

Benjamin D. Horne
Benjamin D. Horne (0072842)
Attorney for Plaintiff
Southeastern Ohio Legal Services
11 East Second Street
Chillicothe, Ohio 45601