

IN THE MUNICIPAL COURT, CHILLICOTHE, OHIO

FILED

2006 JUL 24 PM 2:40

Elizabeth A. Clark,  
Plaintiff,

TINA E. LARGE, CLERK  
MUNICIPAL COURT  
CHILLICOTHE, OHIO

CASE NO: 05 CVG 1103

vs.

Courtney Schiff and  
Jason Greeno,  
Defendants.

JUDGMENT ENTRY

\* \* \* \* \*

The Magistrate's Decision of July 6, 2006, is hereby adopted. Judgment is granted to the Plaintiff in the amount of \$128.20, plus interest from date of judgment and costs.

DATE: 7-24-06

*John B. Ross*  
JUDGE

PROOF OF SERVICE

The Judgment Entry was served on all parties or their attorneys on the 28 day of July, 2006.

*Gretchen S. Steele*  
Deputy Clerk

IN THE MUNICIPAL COURT, CHILLICOTHE, OHIO

Elizabeth A. Clark,  
Plaintiff,

**FILED**

CASE NO: 05 CVG 1103

vs.

JUL 6 2006

Courtney Schiff and  
Jason Greeno,

TINA E. LARGE, CLERK  
CHILLICOTHE MUNICIPAL COURT  
CHILLICOTHE, OHIO

Defendants.

\* \* \* \* \*

MAGISTRATE'S DECISION

Findings of Fact and  
Conclusions of Law

The undersigned, pursuant to the Order of this Court appointing her Magistrate herein, submits the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. This matter came on for hearing on the Plaintiff's Amended Complaint and on Defendants' Answer and Counterclaim for damages arising from a rental agreement. Plaintiff was present and represented by Kathryn Janes, Attorney. Defendants were present and represented by James Buchanan, Attorney.
2. The Plaintiff, through her rental agent, entered into a verbal rental agreement for an upstairs apartment at 560 ½ Eastern Ave., Chillicothe, Ohio, with the Defendants. Defendants agreed to do cleaning and painting in the rental in lieu of paying a cash security deposit. Defendants did this work and moved into the rental in May 2003. The rent was agreed to be \$375.00 per month. The value of the labor for the security deposit is also found to be \$375.00, based on the monthly rental amount.
3. On June 10, 2003, Defendants gave the rental agent a list of problems with the apartment. Some of the items were completed but others were not. Carpet was delivered to the rental but not installed, the kitchen window was not fixed and the roof continued to leak, even though workers were seen to be looking at the roof.
4. In the winter of 2003-2004, the rent was reduced by the agent to \$300.00 per month due to the condition of the apartment and the high heat bills. The rent was never raised back above \$300.00.
5. Another letter was given to the agent in July 2004, listing problems with the rental, however both parties misplaced this document. The Defendant rewrote the letter in March 2005, and delivered a copy to the rental agent on April 4, 2005. Defendant gave no additional written

notices about repairs from July 2004 until April 2005. Once again the rood leaks were listed and the kitchen window had not been fixed. The agent did try to address some of the items in that the commode had been worked on several times and floor boards replaced; the steps were worked on, and she found some storm windows to try. New carpet had been delivered but no padding so it was left rolled up by the Defendants.

6. Defendants paid the rent for April 2005, but did not pay any rent for May 2005, June 2005, or July 2005. Defendants removed their property from the rental around July 16, 2005, after a writ of restitution was issued. Defendants owe rent for May, June and 16 days in July 2005.

7. Plaintiff also alleges that she is entitled to damages that went beyond reasonable wear and tear on the premises, namely \$278.00 for damages to the window frames where plastic was used in the winter, and \$300.00 for cleaning and other expense. Plaintiff presented no estimates or proof of the amount of damage to the windows. It also appears that plastic was necessary to retain heat due to the age and conditions of the windows. Plaintiff's evidence only supports an amount for cleaning and trash removal in the amount of \$100.00.

8. Defendants have counterclaimed and allege violations of the housing code. The Defendants did not request an inspection by the City Housing Inspector until July 2005. His inspection done on July 8, 2005, did find numerous problems with this building and ordered repairs to be completed by September 21, 2005. Defendants claim a reduction in the fair rental value of the apartment due to these conditions.

9. From the evidence presented, it appears that the rental agents attempted to make some repairs but the unit progressively deteriorated over the life of the rental. The written notices from Defendants were met with partial compliance but the more major items were never fixed. The Defendants last notice in April 2005, supports the finding that they are entitled to a second reduction in the fair rental value as of that month and going forward. The fair rental value is found to be \$200.00 per month as of April 2005. Therefore, the Defendants owe \$200.00 per month for May and June 2005, and prorated rent of \$103.20 for July 2005.

10. Defendants are also entitled to a refund of rent for the month of April 2005, in the amount of \$100.00, which reflects the additional reduction of the fair rental value.

11. The Defendants have counterclaimed for damages for additional heating expense in the amount of \$780.00. While the evidence proved that the apartment was hard to heat and that extra space heaters and plastic on the windows were necessary, no utility bills were presented. No

evidence was presented to support the amount claimed or to prove that the bills were extraordinary.

12. The Defendants also claim that they had an oral contract to be paid or reimbursed for work that they did themselves on the property. They claim 80 hours of work, including that done for the security deposit, at a rate of \$8.00 per hour, or \$640.00. Defendants claim they purchased \$200.00 of materials, but receipts presented from April 2003, only total \$159.57, including the personal items purchased at the same time. Defendants had no proof of any agreement for labor or materials to be reimbursed other than to be credited for the security deposit which has been done above.

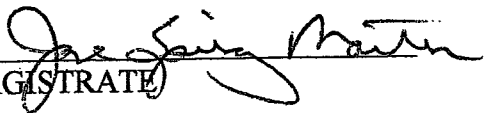
#### CONCLUSIONS OF LAW

1. The Court has jurisdiction over the parties.
2. The Defendants owe back rent in the amount of \$503.20, and for cleaning and trash removal cost of \$100.00.
3. Plaintiff failed to prove her additional claimed damages by a preponderance of the evidence and is not entitled to recover for them.
4. Defendants are entitled to credit in the amount of \$375.00 for work done in lieu of a cash security deposit.
5. Defendants are entitled to a refund of rent for the month of April 2005, due to the reduction in rental value of the premises.
6. Defendants failed to prove their other claimed damages for utility expenses and labor and materials used on the rental.
7. A net judgment should be granted to the Plaintiff in the amount of \$128.20, after credit to the Defendants for the security deposit and \$100.00 in rent reduction.

#### DECISION

It is the Decision of the Magistrate that Judgment be granted to the Plaintiff in the amount of \$128.20, plus interest from date of judgment and costs.

DATE: July 6, 2006

  
MAGISTRATE

PROOF OF SERVICE

This Magistrate's Decision was served upon all parties or their respective Attorneys on

7-7-06.

DATE: July 7, 2006

Gretchen S. Steele  
Deputy Clerk

NOTICE

Objections to the Magistrate's Decision must be filed in writing within 14 days.

A PARTY SHALL NOT ASSIGN AS ERROR ON APPEAL THE COURT'S ADOPTION OF ANY FINDING OF FACT OR CONCLUSION OF LAW IN THIS DECISION UNLESS THE PARTY TIMELY AND SPECIFICALLY OBJECTS TO THAT FINDING OR CONCLUSION AS REQUIRED BY CIVIL RULE 53.