

**FILED**

APR 05 2011

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

IN THE MUNICIPAL COURT, CHILlicothe, OHIO

JODY KELLY

PLAINTIFF,

CASE NO. CVF 10 00430

vs.

JUDGE BUNCH

CHILlicothe METROPOLITAN  
HOUSING AUTHORITY

DECISION AND JOURNAL ENTRY

DEFENDANT.

This case came on for hearing on defendant's motion for partial summary judgment. This matter was set for hearing and discussed with counsel at a pretrial Tuesday, March 29, 2011, at 2:00 p.m. At that time counsel were informed of the Court's tentative findings, which upon review are now revised and memorialized as follows.

Upon review of the motion, memorandum in support and contra, and cases provided, the Court finds the motion to be well-taken as to the following issues:

1. Plaintiff's third cause of action of trespass and conversion obviously is a claim of tortious conduct, which the Court finds is barred by political subdivision immunity provided in O.R.C. 2744.02 and 2744.05.
2. Plaintiff's first, second, and fourth cause of action are based upon the contractual liability between plaintiff and defendant, and are not barred by political subdivision toward liability and immunity. O.R.C. 2744.09 (A).
3. The contractual claims of the plaintiff do not provide for recovery of her punitive damages. *O'Neil v. Walburg*, 70 Ohio App.2d 30, 24 Ohio Op. 3d 22, 433 NE 2d 1286 (1980). Plaintiff's damages are therefore limited to actual damage proven under any breach of contract and reasonable attorney fees if appropriate.

Accordingly, partial summary judgment is granted to defendant  
on the issues of the third cause of action, and punitive  
damages. k.m.

So ORDERED.

4/5/11  
DATE

TEB  
JUDGE THOMAS E. BUNCH

Clerk: Kindly serve a copy of the foregoing with notice upon all  
parties and/or counsel of record.