

IN THE MUNICIPAL COURT
Ravenna DIVISION
PORTAGE COUNTY, OHIO

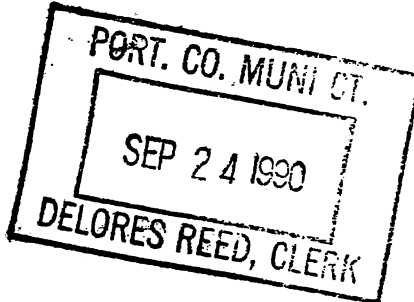
CASE # R90CVG-2008

FINDINGS OF THE REFEREE--FORCIBLE
ENTRY AND DETAINER

William D. Jones
PLAINTIFF

VS.

Dale and Delores Burns
DEFENDANT



HEARING DATE 9-24-90

COMPLAINT FILED 8-16-90 SERVICE DATE 8-21-90

PARTIES PRESENT PLAINTIFF ☒
DEFENDANT ☒

TYPE OF TENANCY: ORAL WRITTEN RENTAL AGREEMENT,
WRITTEN LEASE SQUATTER, OTHER,

RESIDENTIAL (ORC 4321) COMMERCIAL (ORC 1923)
TRAILER PARK (ORC 3733)

PLAINTIFF: OWNER AGENT

BASIS OF FIRST CAUSE OF ACTION
RENT DEFAULT BEGINNING

TERMINATION OF PERIODIC TENANCY

☒ BREACH OF LEASE/RENTAL AGREEMENT TERM:

ITEM # CONDITION OF PROPERTY
OTHER

PREMISES VACATED ON

KEY RETURNED ON

COPY ATTACHED: YES/NO

DELIVERED HOW?

TENANCY BEGAN ON: 4/16/90

TERM OF TENANCY: 1 YEAR

RENT DUE ON: 1st

THREE DAY NOTICE TO VACATE

DELIVERED HOW? PERSONAL

DATE DELIVERED: 8/7/90

COPY ATTACHED: YES/NO

THIS CAUSE CAME ON FOR HEARING BEFORE THE REFEREE AS REGULARLY ASSIGNED BY THE COURT, EVIDENCE AND TESTIMONY WERE RECEIVED AND THE ABOVE FACTS WERE FOUND TO BE TRUE. AFTER FINDING JURISDICTION AND VENUE TO BE PROPER, THE REFEREE FINDS THAT:

A WRIT OF RESTITUTION IS TO ISSUE AGAINST THE DEFENDANT AS PRAYED

☒ A WRIT OF RESTITUTION IS DENIED BECAUSE

SEE ATTACHED FINDINGS

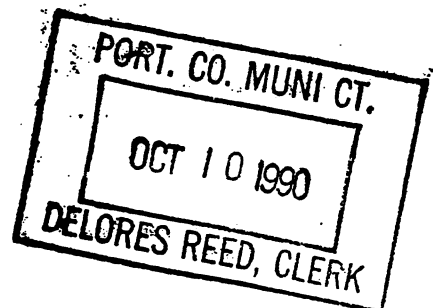
A WRIT OF RESTITUTION IS TO ISSUE BY AGREEMENT AGAINST THE NAMED DEFENDANTS AS PRAYED, BUT IS NOT TO BE EXECUTED IF:

PLAINTIFF

DEFENDANT

THE FIRST CAUSE OF ACTION IS MOOT AND THEREFORE DISMISSED BY THE PLAINTIFF, WITHOUT PREJUDICE.

☒ THE SECOND CAUSE OF ACTION IS PENDING UNTIL ANSWER DATE.



JUDGMENT ENTRY

THE COURT, HAVING REVIEWED THE FINDING AND RECOMMENDATIONS OF THE REFEREE, APPROVES AND HEREBY ORDERS, ADJUDGES, AND DECREES THAT THE SAME BE ENTERED OF RECORD AND MADE AN ORDER OF THIS COURT. IT IS SO ORDERED.

R. P. Meill
REFEREE

JUDGE

RAVENNA BRANCHTONES
PLAINTIFFCASE NUMBER R90CVG2008VS
BURNS
DEFENDANTFINDINGS AND REPORT
OF REFEREE

Plaintiff - William David Jones, 6343 Bridge St, house rented for him. Exh A - ^{rental} agreement, includes rules and regs. Exh B - Notice to move due to condition of house and property. Mentioned problem orally before that. Exh C - 3 day notice, 8/27/90, handed to Mr. Burns. Exh D 1 - ? front of garage, altered door. Photo taken within last 2 months. Back of garage, shows junk around. Items stored on property, asked def. to remove. Enclosed glass porch now junk storage area. Part of downstairs bedroom. Bathroom, newly renovated, clutter in bathroom. Inside of garage, completely empty when he moved in. Kitchen. Burns in like worn rag, stinks. Def. said well take care of it. All photos true and accurate representations. House was epic and span before def. moved in. spent \$1,000 on house. No complaints from tenants about property. He talked to them several times about condition of property. Damage to garage door.

9/24/90
DATEJohn P. Meill
REFEREE

RAVENNA

BRANCH

JONES

PLAINTIFF

CASE NUMBER R90CV62008

VS

FINDINGS AND REPORT

BEANS

DEFENDANT

OF REFEREE

Cross - has seen rats around home, never called Health Dept. Gave no permission to cut down. Gave no permission to store freezer. Told def he would be down 1st of every month to inspect. Front doors were open when he went in. Accepting rental payments from PMHA for May and Sept, but not for tenants. Photos taken on 8/1/90. Talked about correcting the problems about two months after they moved in. Started having problems with lawn in June. Strip along screen not securing the screen. Fight in bedroom was broken by his dogs. Inspected house on 6/1/90, told def to do these things. Photos show how the property was on 6/1/90 also.

Michael Jerry Jones, 6328 Bridge St - brother of plaintiff. With him when photos taken. Edg was rough, did not see bedroom. Left due to door. Garage cluttered. Was in home after repairs made. House was pretty well cleaned up before def. moved in. House was trashy looking.

9/24/90
DATE

J. P. McIl
REFEREE

RAVENNA BRANCHJONES

PLAINTIFF

CASE NUMBER R90CV6 2008

VS

FINDINGS AND REPORT

BURNS

DEFENDANT

OF REFEREE

evidence does not establish that the lack of
orderlines materially affects health or safety.
Therefore, plaintiff has not established statutory
grounds for the writ, and the writ must be
denied.

DATE

9/24/90

REFEREE

J. P. McNeil

RAVENNA BRANCHJONES

PLAINTIFF

CASE NUMBER R90CV62008

VS

FINDINGS AND REPORT

BURNS

DEFENDANT

OF REFEREE

Cross-pl. went through front door, does not know if he had key. Borne of problem with water. Small was rotting smell, ~~the~~ flies bad.

Dale Burns - Gph A, bore that he signed. One week earlier, pl. talked about the same problems. Fixed light, fixed back door, offered to fix garage door. House has been staying clean. Barrels are used for recycling. Garage door - had permission to cut off, was going to put rubber flap on door, did scrape gravel back but still could not get door open. Garage is cluttered, has ~~not~~ ^{not} changed. Greaser on front porch does work, had permission to put on porch. Bathroom condition is not normal. Boys' bedrooms were not cleaned up. Material in bags is not garbage. Keep garbage in house because no other place to put. Nothing in garage to draw rats. Not enough room in house for the stuff he had in garage.

9/24/90
DATE

John P. Meill
REFEREE

RAVENNA BRANCHJONES

PLAINTIFF

CASE NUMBER R90CV32008

VS

FINDINGS AND REPORT

BURNS

DEFENDANT

OF REFEREE

No smell about house. Sometimes get musty smell.

Defendant - home in good shape for most part when he moved in, kitchen wall dirty. Water taken then moving. Garage condition outside in the same as when he moved in. Right - hand garage door, show what happens when you try to open. Given permission by landlord to cut-off door. Drums, there for just a couple of weeks. Garage bags have pots and pans in them. Right picture - super-glued because that's what plaintiff wanted, offered to replace. Came down again a month or so ^{ago} ~~offer~~. We'll not put back up due to unsafe condition. Back door - screen still there, put in nails to hold screen. Pl. wanted door moved twice a week, tried to keep moved once a week, sometimes did not do. Glass broke in L. R. furnace, broken when he moved in, dangerous around children. Refrigerator leaks, that's why towel on floor. Door was locked when plaintiff entered. No intentional damage to property, believe normal wear and tear.

9/24/20
DATE

John P. Meil
REFEREE

PORTAGE COUNTY MUNICIPAL COURT

PC-1363

RAVENNA BRANCH

JONES

PLAINTIFF

CASE NUMBER R90CV62058

VS

FINDINGS AND REPORT

BURNS

DEFENDANT

OF REFEREE

No trash cans outside, pl. did not want him to keep outside

Com - Pl. B, 30 day notice was to leave, not clean-up. Not employed, or ADC. Garbage has not been out on floor, can't afford garbage can. Pl. told pl. about problem with furnace, in early June.

John Hester, 467 S. Sycamore, def's brother-in-law. He said pl. say that def. could cut off the bottom of the door, 1 1/2 - 2 months ago. Def. told pl. why he could not use door.

Com - was involved in another conversation. Did not hear how far it could be cut, 4-5 inches is now cut off. Shimming-off would not have worked.

9/24/90
DATE

Ed P. Weill
REFEREE

(6)

RAVENNA

BRANCH

JONES

PLAINTIFF

CASE NUMBER R90CV6 2078

VS

FINDINGS AND REPORT

BURNS

DEFENDANT

OF REFEREE

Findings:

1. Plaintiff is the landlord and defendant the tenant under a written residential lease, under section 8 Existing Housing Certification Program.
2. Plaintiff became dissatisfied with the manner in which defendant maintained the property very soon after the lease period began. On or about June 21, 1990, plaintiff served defendant with a notice, by certified mail, alleging problems with mowing the yard, breaking a back door and a bedroom light and not keeping the house and contents neat and clean. The notice also mentions the alteration of the garage door and junk cars. The notice concludes by saying "this is your written notice to move immediately and I mean this!" Then, in handwriting under the above language, are the words "By July 31, 1990." Defendant did not move pursuant to that notice, and the statutory notice to vacate was served on them on August 7, 1990.

9/24/90
DATEJ. P. Neill
REFEREE

RAVENNA BRANCHJONES

PLAINTIFF

CASE NUMBER R90CV62038

VS

FINDINGS AND REPORT

BURNS

DEFENDANT

OF REFEREE

3. R.C. 1923.02(A)(8) and (A)(9) are the sections which grant the court authority to issue a writ of restitution in a case such as this. R.C. 1923.02(A)(8) requires that the violation "materially affect health and safety." R.C. 5321.11, the section providing for notice of termination of tenancy for violations of the tenant's statutory duties, also provides that the violation must materially affect health and safety.

4. The notice described in paragraph 2 above is phrased in a very negative manner. The language indicates that the landlord wants the tenants out, rather than the problems corrected. However, even accepting the fact that all of the cited problems exist, and there is no doubt that the house and garage are messy and not neat and clean, those facts do not constitute violations which materially affect health or safety. Plaintiff's photographs and defendant's photographs show that the house is not neat and clean. However, the

DATE

9/24/90

REFEREE

Ed P. Meill