

IN THE CAMBRIDGE MUNICIPAL COURT  
GUERNSEY COUNTY, OHIO

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GUERNSEY COUNTY, OHIO

DANNY SNAPP, et al.,

Case No. 14CVF00579

2015 AUG 27 P 3:27

Plaintiffs,

LAUREL FAMILY  
COURT OF COURT

v.

JUDGE JOHN M. NICHOLSON

KACI ROSSITER,

MAGISTRATE Andrew Warhol

COMPUTER

Defendant.

**MAGISTRATE'S DECISION**  
**FOLLOWING BENCH TRIAL ON AUGUST 13, 2015**

**I. INTRODUCTION**

This matter came to be heard upon the Complaint filed by Plaintiffs Danny and Melanie Snapp against Defendant Kaci Rossiter. The Complaint claimed past due rent and damages from Defendant. Defendant filed an Answer to the Complaint denying Plaintiffs' allegations. Following a pre-trial conference, the court set an evidentiary hearing on August 13, 2015. On August 13, 2015, a hearing was held before the undersigned Magistrate, attended by Plaintiffs and their counsel as well as Defendant and her counsel. Sworn testimony was taken from Plaintiff Melanie Snapp as well as the Defendant, and exhibits were admitted into evidence without objection. Following the evidentiary hearing, counsel for the parties each submitted a post-trial brief and proposed Magistrate Decision/Judgment Entry upon the Court's request.

The Magistrate recommends that this Court enter judgment in favor of Plaintiffs and against Defendant on Plaintiff's claims as more fully described below. The Magistrate makes the following specific findings of fact and conclusions of law, based upon the testimony at the hearing and post-trial briefs.

## **II. FINDINGS OF FACT**

1. In September 2012, Plaintiff entered into a written one-year residential lease agreement to rent a 2-bedroom apartment located at 780 Lincoln St., Apt. C in Cambridge, Ohio from Plaintiffs. Following the one-year lease term, which expired on September 30, 2013, the tenancy converted to a month-to-month rental agreement.
2. Both parties signed the written lease agreement, a copy of which was admitted into evidence as Exhibit A.
3. Defendant paid a security deposit of \$425.00 to Plaintiffs at the time she entered into the lease agreement.
4. On July 16, 2014, Plaintiff Melanie Snapp inspected Defendant's apartment.
5. On July 21, 2014, Plaintiffs issued a letter to Defendant entitled "Inspection Failure Report". The letter listed conditions in the apartment which failed to meet Plaintiffs' approval, requested that Defendant clean or remedy the conditions, and provided specific cleaning instructions. The July 21, 2014 letter was admitted into evidence as Exhibit C.
6. Following receipt of the letter on July 21, 2014, Defendant thoroughly cleaned the apartment in anticipation of Plaintiffs' follow-up inspection.
7. Plaintiffs conducted a follow-up inspection of Defendant's apartment in either late July or early August 2014 and found the conditions in the apartment to be cleaned and in acceptable condition.
8. On or about August 19, 2014, Defendant gave Plaintiffs a written 30-day notice of lease termination.
9. Defendant vacated the apartment on or about September 19, 2014.
10. The monthly rental obligation for the apartment was \$475.00 for September 2014.

11. Defendant did not pay rent for September 2014.
12. Following Defendant's move out of the apartment, Plaintiffs inspected the apartment and completed a "Security Deposit Damage Report", admitted into evidence as Exhibit D.
13. Plaintiff Melanie Snapp testified that the condition of the apartment following Defendant's move required cleaning and repairs as listed on Exhibit D.
14. Plaintiff Melanie Snapp testified that she spent 38.5 hours cleaning the apartment, at a rate of \$20.00 per hour, and estimated that the cleaning materials totaled \$58.00.
15. Plaintiff Melanie Snapp testified that Plaintiffs spent 10.4 hours (625 minutes) making repairs, at a rate of \$20.00 per hour, and a total of \$197.73 for materials related to the repairs.
16. Of the 32 items listed as needing cleaned or repaired within Exhibit D, Plaintiffs produced pictures of only the basement window, the toilet, the walls, personal items left behind, ceiling fan, and curtains.
17. During her testimony, Defendant acknowledged responsibility for reasonable costs to repair the fan and walls, and the fee to haul away the personal property.
18. Plaintiffs purchased a new ceiling fan for \$46.09. Plaintiff Danny Snapp installed the ceiling fan.
19. Plaintiffs spent \$5.00 on materials to repair the walls. Plaintiff Danny Snapp made the repairs to the wall.
20. Plaintiffs paid \$10.00 to have items of personal property hauled from the apartment.
21. Plaintiffs retained without argument Defendant's \$425.00 security deposit.

### **III. CONCLUSIONS OF LAW AND FACT**

There is no dispute regarding the amount of rent unpaid by Defendant. The parties agree that the amount of rent due for September 2014 was \$475.00. The parties agree that no rent has been paid for September 2014. Accordingly, plaintiff has established damages for unpaid rent in the amount of \$475.00.

However, Plaintiffs' claim for damages to the premises is in dispute. R.C. 5321.05 provides that:

(A) A tenant who is a party to a rental agreement shall do all of the following:

- (1) to keep the dwelling unit safe and sanitary;
- (2) to dispose of garbage in a clean, safe, and sanitary manner;
- (3) to keep all plumbing fixtures in the dwelling unit as clean as their condition permits;
- (4) to use and operate properly all electrical and plumbing fixtures;
- (5) to comply with all applicable housing, health and safety codes;
- (6) to refrain personally and to forbid guests from intentionally or negligently damaging or removing any fixture, appliance, or other part of the premises;
- (7) to maintain in good working order and condition any range, refrigerator, washer, dryer, dishwasher, or other appliance that the landlord has supplied and that the tenant is required to maintain by the terms of the written rental agreement;
- (8) to conduct himself/herself and to require guests to conduct themselves in a manner that will not disturb the neighbors' peaceful enjoyment of the premises; and
- (9) to conduct himself/herself and to require guests to conduct themselves in connection with the premises so as not to violate the prohibitions in R.C. Chapters 2925 and 3719, or in municipal ordinances that are similar to any section of those chapters, relative to controlled substances.

Defendant conceded responsibility for the material costs associated with the repairs to the ceiling fan (\$46.09), the wall (\$5.00), and the \$10.00 hauling fee to remove personal property from the residence. In addition to the material charges for these items, Plaintiffs request reimbursement for labor charges at \$20.00 per hour. The Court, however, has inherent authority



to determine its own reasonable rate. *See Oney v. Kenyon*, 5<sup>th</sup> Dist. 1998 WL 401034 (May 4, 1998). For labor charges related to cleaning and repairs, the Court sets the reasonable rate at \$10.00 hour rather than \$20.00 per hour. Plaintiffs are therefore entitled to reimbursement of \$30.00 (180 minutes x \$10.00/hr.) for installation of the ceiling fan and \$27.50 (165 minutes x \$10/hr.) for repairs to the wall.

Plaintiffs' claim for cleaning charges is unsupported by the evidence. Plaintiffs failed to provide reliable testimony, pictures, or other proof to establish that the conditions in the apartment were the result of violations of R.C. 5321.05(A) or otherwise constituted damage beyond normal wear and tear. Further, Plaintiffs' claims that the apartment required such extensive cleaning is not credible considering the fact that Plaintiffs inspected and approved the conditions in the apartment less than two months before Defendant vacated. Additionally, Plaintiffs' claims are based upon their own standards of cleanliness which are not consistent with the ordinary meaning of "wear and tear". Plaintiffs' claims for labor and materials related to cleaning the apartment are therefore denied.

Plaintiffs seek damages related to the replacement costs for light bulbs, batteries, drip pans, and an oven liner. Use of these items, typically daily, results in normal wear and tear. Defendant is not responsible for ordinary wear and tear. Plaintiffs' claims for labor and materials related to the light bulbs, batteries, drip pans, and oven liner are therefore denied.

Plaintiffs seek reimbursement for the replacement cost of two throw rugs. Defendant acknowledges using the rugs throughout her tenancy and throwing them away because of their worn condition at the time she moved out of the apartment. Plaintiff Melanie Snapp testified that she always provides new throw rugs to tenants upon move-in. Defendant is not responsible for the replacement cost of an item that would be replaced by Plaintiffs regardless of its condition.

Even if it was not the custom of Plaintiffs to provide new rugs to each tenant, Plaintiffs failed to provide any evidence of the value of the rugs following Defendant's tenancy. Plaintiff's claim for replacement costs for the new rugs is therefore denied.

Plaintiffs seek reimbursement for a cracked basement window. Plaintiffs failed to produce credible evidence to show that the window was cracked as a result of Defendant's failure to comply with her obligations under R.C. 5321.05(A). The fact that the window was cracked during Defendant's tenancy does not, by itself, make Defendant liable for the replacement costs. Plaintiffs' claim for replacement of the basement window is denied.

Plaintiffs' duplicative claims for trash removal are denied. Plaintiffs could not provide any explanation for why Defendant was charged twice for that task.

Plaintiff seeks reimbursement for a cutting board they claim Defendant removed from the apartment. Defendant denied ever receiving a cutting board or taking a cutting board from the apartment. Plaintiffs failed to provide sufficient evidence to support their claim. Plaintiffs' claim for reimbursement for the cutting board is denied.

The parties agree that Defendant paid a security deposit of \$425.00 which was retained by Plaintiffs after Defendant vacated the apartment. The purpose of the deposit is to secure against a landlord's claims pursuant to R.C. 5321.05. The security deposit should therefore be credited to the amount determined to be due under Plaintiff's damages claims, and the remainder to off-set the amount due for unpaid rent.

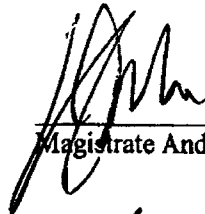
In addition to damages, Plaintiffs seek attorney fees for their damages claims under R.C. 5321.05. Defendant's security deposit exceeds the R.C. 5321.05 damages awarded to Plaintiffs. Plaintiffs are prohibited from collecting fees in this matter. *Hines v. Riley*, 129 Ohio App.3d 379, 717 N.E.2d 1133 (4<sup>th</sup> Dist. 1998). Therefore, Plaintiffs' request for attorney fees is denied.

In conclusion, Plaintiffs have established by a preponderance of the evidence their entitlement to damages in the amount of \$168.59, calculated as follows: \$475.00 for unpaid rent, plus \$76.09 for damage to the ceiling fan, plus \$32.50 for damage to the walls, plus \$10.00 hauling fee for a total of \$593.59, less Defendant's security deposit of \$425.00.

#### IV. DECISION

For the above reasons, the undersigned Magistrate recommends that the Court order judgment for Plaintiffs against Defendant in the amount of \$168.59 plus costs and interest from date of judgment.

The Magistrate recommends that the Court adopt this decision and enter judgment as recommended herein.



Magistrate Andrew Warhola

Date: August 27, 2015

**A PARTY SHALL NOT ASSIGN AS ERROR ON APPEAL THE COURT'S ADOPTION OF ANY FACTUAL FINDING OR LEGAL CONCLUSION, WHETHER OR NOT SPECIFICALLY DESIGNATED AS A FINDING OF FACT OR A CONCLUSION OF LAW UNDER CIV. RULE 53(D)(3)(A)(ii), UNLESS THE PARTY TIMELY AND SPECIFICALLY OBJECTS TO THAT FACTUAL FINDING OR LEGAL CONCLUSION AS REQUIRED BY CIV. RULE 53(D)(3)(B).**

The Clerk is directed to serve all parties via counsel of record with a copy of this decision.

Copies to:

Bryan C. Conaway  
Attorney for Plaintiffs  
126 North 9<sup>th</sup> St.  
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Kristen Finzel Lewis  
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CAMBRIDGE MUNICIPAL COURT  
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DANNY SNAPP, ET AL.

\*

CASE NO. 14 CVF00579

PLAINTIFFS.

\*

VS.

\*

JUDGMENT ENTRY

KACI ROSSITER,

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JOURNAL ENTRY

DEFENDANT.

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The Court determines that there is no error of law or other defect on the face of the Magistrate's Decision. The Court adopts the Decision of the Magistrate and approves and enters the same as a matter of record.

Judgment is entered in favor of the Plaintiff and against Defendant, Kaci Rossiter, in the sum of \$168.59 with interest at three percent (3%) per annum from the date of judgment and for costs herein. The decision of the Court constitutes a final and appealable order. The Clerk of this Court is ORDERED to comply with Civil Rule 58(B), and serve upon all parties notice of judgment and date of entry upon the journal.

IT IS SO ORDERED.

  
JOHN M. NICHOLSON, JUDGE

cc: Attorney Bryan Conaway  
Attorney Kristen Finzel Lewis

JOURNAL NO. 8/31/15	
CERTIFICATE OF SERVICE	
PER CIVIL RULE 58(B) PARTIES	
NOTIFIED	
8/31/15	L. M. Conaway
DATE	DEPUTY CLERK