

IN THE NEW PHILADELPHIA MUNICIPAL COURT

NEW PHILADELPHIA, OHIO

WESLEY TOLLE, PLAINTIFF

2014 DEC 12 A CV# 1400181

VS

JACOB CROSS, et al, DEFENDANTS

CLERK
JULIE A. STAMETS

JUDGE VON ALLMAN

JUDGMENT ENTRY

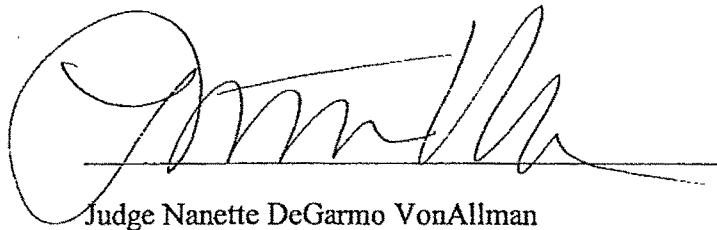
This matter is before the court for consideration of the Plaintiff's motion for summary judgment and Defendants' memorandum in opposition. The court has considered this matter in accordance with Ohio Civil Rule 56 and finds that the motion for summary judgment should be denied.

The court finds that Defendants, as month to month tenants, are entitled to defend the eviction on the basis of retaliation, notwithstanding the March 31, 2014 notice of termination. After construing the evidence presented in favor of the non-moving parties, the court finds that genuine issues of material fact exist in the record as to whether the termination notice was given in retaliation for the tenants' request for repairs.


The Defendants will have the burden of proving retaliation by a preponderance of the evidence at trial, and if they do so, then the landlord would have the burden of going forward to show that the notice of termination was given for a non-retaliatory reason. *Ruble v. M&L Properties*, 2010 WL 5452110, 5th App. Dist.

This matter will proceed to trial as previously scheduled.

IT IS SO ORDERED.



Judge Nanette DeGarmo VonAllman



Atty. T. Fox

Atty. Finzel-Lewis