

Judicial District of New Britain
SUPERIOR COURT
FILED

APR 15 2024

CYNTHIA A. SKORZEWSKI
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DOCKET NO. HHB CV 21 6064707

NINA COVINGTON

: SUPERIOR COURT

v.

: JUDICIAL DISTRICT OF NEW BRITAIN

AYESHA ILYAS

& ZAIN CHUGHTAI

: APRIL 15, 2024

MEMORANDUM OF DECISION

In September 2020 the plaintiff Nina Covington moved into the second floor of 501 West Street in the city of Bristol, a property owned by the defendant Zain Chughtai. On November 19, 2020, while preparing lunch for her family, Ms. Covington's ring finger on her right hand was severely injured when the handle to the door of the apartment's stove came off in her hand, her finger was caught and twisted between the door handle and the stove, and the door closed with great force.¹ Claiming that she had informed Mr. Chughtai that the handle to the door of the stove was loose and likely to come off, and that she had requested that he provide her with another stove, Ms. Covington brought this lawsuit, seeking damages for Mr. Chughtai's alleged negligence in failing to correct this defect in the leased premises.

¹ Exhibit 5 is a short video showing the force with which the door to the stove closed.

4/15/2024 - copy sent to RJD. JONO sent to Law office of Austin Buhms, Atty Paul Stewart Levin and Atty James Francis Kane. J. Erico, AC

The complaint consists of four counts. Counts one and three seek damages for the alleged negligence of both defendants.² Counts two and four allege that the defendants violated Conn. General Statutes 47a-7, which requires landlords to comply with building and housing codes and to make repairs and do whatever else is necessary to put and keep the premises in fit and habitable condition, and failed to comply with an implied warranty of habitability.

This case was tried to the court on September 20 and December 7, 2023. Both Ms. Covington and Mr. Chughtai testified at length, providing the court with ample opportunity to evaluate their testimony. What follows represents the court's findings of fact and conclusions of law, based on its evaluation of the credibility of the witnesses and the weight to be given their testimony, as well as the exhibits introduced, and on the legal arguments advanced by the parties at trial and in the post-trial briefs filed in February 2024.

² The defendant Chughtai is the owner of the demised premises. The defendant Ilyas, his wife, signed the lease with Ms. Covington as Mr. Chughtai's authorized agent. Throughout the pendency of this action the parties, including the defendants, have treated the defendants, if they are liable at all, as jointly liable.

I

Certain well-established principles of law govern the court's resolution of this dispute between landlord and tenant.

As a tenant Ms. Covington was owed the following duties by Mr. Chughtai:

1. the duty to use reasonable care to inspect and maintain the premises and to make them reasonably safe;

2. the duty to warn or guard the plaintiff from being injured by reason of any defects that the plaintiff could not reasonably be expected to discover;

3. the duty to conduct activities on the premises in such a way as not to injure the plaintiff.

The law defines a defect or dangerous condition as a condition that makes the premises not reasonably safe for the reasonably anticipated uses of the premises.

Landlords like Mr. Chughtai generally do not have a duty to keep in repair any portion of the premises leased to and in the exclusive possession and control of the tenant.

In order for Ms. Covington to recover damages from Mr. Chughtai she must prove, as she claims, that he had actual notice, that is, that he knew of the unsafe condition long enough before

her injury to have taken steps to correct the condition or to take other suitable precautions.

Mr. Chughtai has raised special defenses to Ms. Covington's complaint. He claims that she was in possession and control of the second floor at 501 West Street, and that any unsafe condition was caused by her or other persons living with her at that address. He also claims that any injuries she suffered were caused by her own negligence and carelessness.

II

The court finds that Ms. Covington did not have *exclusive* control of the leased premises; Mr. Chughtai retained sufficient control under the terms of the lease to make him responsible for any defect or dangerous condition of which he had notice long enough before her injury to have taken steps to correct the condition or to take other suitable precautions.

It is true, as argued by defendants, that the lease provides that the "property shall be used and occupied solely by Tenant and Tenant's immediate family . . . to be used exclusively as a private single-family dwelling." Exhibit 1, p. 2. In addition, the tenant is obligated to, "at its sole expense, keep and maintain

the Property and its appurtenances in a good and sanitary condition and repair" Id., p. 4.

Mr. Chughtai, however, retained a right to enter the premises upon two-hour notice "in order for inspection, to *make necessary repairs, alterations or improvements . . .*" and to "exhibit the Property to prospective purchasers, mortgagees, or lessees upon reasonable notice." (Emphasis added.) Id., p. 3. In addition, Ms. Covington could make no "alterations to building or improvements on the Property or construct any building or make any other improvements on the Property without the prior written consent of [Mr. Chughtai]." Ibid. That Mr. Chughtai understood that he had retained control over replacement of the defective stove is demonstrated by his own text of January 22, 2021: "The stove is (sic) been ready and I have told you pay and you get the stove you the one who delaying everything." Exhibit 9, p. 103. In fact, he replaced the stove, but long after Ms. Covington's injury.

The court finds further that Ms. Covington provided notice to Mr. Chughtai of the defective condition of the stove. While she did not note any problems with the stove on the tenant inspection

form she completed on September 26, 2020,³ Ms. Covington testified credibly that exhibit 2 is a photograph taken by her shortly after she occupied the premises and sent to Mr. Chughtai by text message as evidence of the defective door to the stove. Ms. Covington was unable to provide a copy of that text, but no other reason appears as to why she would have taken the photograph of the stove (exhibit 2) if not to use it to notify Mr. Chughtai of its defective condition. Other texts in evidence corroborate her claim that she had notified Mr. Chughtai of the defective condition, of her specific request for a replacement stove and of the consequences of his failure to provide one. For example, in a text exchange with Mr. Chughtai on or about January 18, 2021 Ms. Covington responds to a question from Mr. Chughtai as to when he can expect a rent payment: "I am going for surgery at 12:30. Cant (sic) stress rent today. I get my finger cut off today. *thanks Omar. I begged you for a stove. I still have this broke stove.*" (Emphasis added.) Exhibit 9, p. 119. And, again, on or about January 21, 2021: "You were supposed to supply the fridge that's

³ Ms. Covington testified that she was grateful to have found a rental premises for her large family, realized Mr. Chughtai was making upgrades to the property and did not want to make complaints so soon after moving in.

you'll (sic) job. Just like that damn stove I begged you to replace *told you the handle was broke.*" (Emphasis added.) Id., p. 116.⁴ And, "I am in severe pain cause you didn't wanna replace my stove. . . ." Id., p. 108. "(Y)ou disabled me I can't even do most things cause I'm one handed. My finger has metal pins all in it." Id., p. 104.

In sum, the court finds that the defendants failed in their duty to use reasonable care to inspect and maintain the premises leased to Ms. Covington and to make them reasonably safe for her use. Furthermore, there can really be no serious question that Ms. Covington's injuries, losses and expenses were proximately caused by this failure on the part of the defendants and the consequent injury to her finger and hand.

At the same time Ms. Covington, herself, had notice of the defect. She had a concomitant duty to look out for her own safety by making minor, temporary repairs to the stove and exercising extra care in using the stove. While the defendants' responsibility for her damages is primary, her own negligence in using the stove contributed to her injuries.

⁴ These particular texts from Ms. Covington are strangely absent from exhibit I, Mr. Chughtai's exhibit of texts between him and Ms. Covington covering the same period.

III

Connecticut General Statutes § 47a-7 requires, among other things, that a landlord shall "maintain in good and safe working order and condition all . . . appliances . . . supplied or required to be supplied by him" It follows from the preceding discussion that these defendants violated the statute insofar as the stove provided to Ms. Covington is concerned. Ms. Covington, however, makes a broader claim; namely, that the defendants have violated an implied warranty of habitability. There is disagreement among Superior Court judges whether such an implied warranty exists in the caselaw of this state. This court need not weigh in on that subject. In the few photographs and limited testimony as to defects in the premises other than the stove, Ms. Covington has provided evidence far short of what would be required to support a finding of a violation of the implied warranty. Nor was there evidence at trial of damages resulting from any such violation.

Therefore, the court will enter a judgment for the defendants on counts two and four.

IV

The court must next determine what are the fair, just and reasonable damages to award for the proximate effects of the defendants' negligence.

Ms. Covington experienced immediate and intense pain from the failure of the oven door and the twisting and trapping of her right ring finger. There followed a lengthy course of conservative treatments via occupational therapy, which had only limited success in reducing her pain. Finally, it became necessary for her to undergo two surgeries, the second of which effected a fusion of her right ring finger and the fifth finger on that hand. While this treatment has reduced Ms. Covington's continuing pain, her use of her right hand, her dominant hand, has been severely compromised. This has affected all aspects of her life, from her care of her children to personal hygiene. As a result of her injuries she is suffering; according to medical evidence, a 54% disability of her right ring finger and a 5% disability of the right hand.

Photographs in evidence show both the immediate disfigurement of Ms. Covington's hand as a result of the injury and the

extensiveness of the surgeries needed to reduce her pain. See exhibits 3, 6 & 8.

While defendants have raised questions as to some of the claimed medical bills; see Defendants' Response to Plaintiff's Post-Trial Brief, docket entry #145, pp. 4-5 (Feb. 8, 2024); the court's careful examination of exhibit 27, a summary of all medical bills, and a comparison of that exhibit with the individual summaries from various providers (exhibits 12, 14, 16, 18, 20, 22 & 24) turned up no such questions.⁵ Therefore, the court will allow those bills as economic damages.

Ms. Covington is entitled to compensation for past, present and future pain and suffering, both mental and physical, and past, present and future loss of the enjoyment of life's activities, about which she testified at length. The parties stipulated that Ms. Covington is presently 46 years old and has a statistical life expectancy of 33.5 years.

⁵ The court did exclude one bill of \$175.00 from the Hospital of Central Connecticut for aspiration of plaintiff's ganglion on her left wrist, which the court agrees was not shown to be related to her right-hand injury. See exhibit 22, p. 3.

The court finds that the damages of the plaintiff proximately caused by the defendants' negligence are as follows:

Economic damages	\$71,983.86
Non-economic damages	<u>150,000.00</u>
Total damages	\$221,983.86

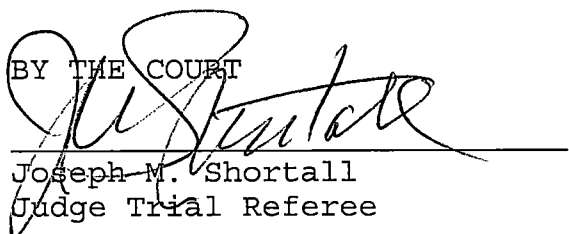
The responsibility of each party for the plaintiff's damages is as follows:

Plaintiff	25% responsible
Defendants	<u>75% responsible</u>
Total	100%

JUDGMENT ENTERS for the defendants on counts two and four.

JUDGMENT ENTERS for the plaintiff and against the defendants on counts one and three in the amount of \$166,487.90.

BY THE COURT



Joseph M. Shortall
Judge Trial Referee