

H-1778

DOCKET NO.: HFH-CV24-5008042-S : SUPERIOR COURT  
ALFEE R. BLAKE Et. Al : JUDICIAL DISTRICT OF  
V. : HARTFORD  
 : HOUSING SESSION  
TASHANNA RICHARDS-CAULTON : MAY 31, 2024

MEMORANDUM OF DECISION

The plaintiffs filed the present action against the defendant for damages arising out of the lease agreement between the parties. On January 2, 2024, the plaintiffs filed a complaint against the defendant seeking damages for unpaid rent and to recover the cost of repairs for damages they incurred after the defendant relinquished the premises to the plaintiffs. On March 13, 2024, the court held a hearing in damages as a result of the plaintiffs' claims.

“The elements of a breach of contract action are the formation of an agreement, performance by one party, breach of the agreement by the other party and damages.” (Internal quotation marks omitted.) *American Express Centurion Bank v. Head*, 115 Conn.App. 10, 15-16, 971 A.2d 90 (2009). The burden of proving damages is “an essential element of the plaintiff’s proof and must be proved with reasonable certainty.... Damages are recoverable only to the extent that the evidence affords a sufficient basis for estimating their amount in money with reasonable certainty.” (Internal quotation marks omitted.) *24 Leggett Street Ltd. Partnership v. Beacon Industries, Inc.*, 239 Conn. 284, 308-09, 685 A.2d 305 (1996).

“The landlord must ... establish sufficient evidence of the amount of the damage to remove a judgment from the area of speculation. This will not ordinarily require expert testimony or appraisals, but it does require the presentation of some evidence from which a court can make

a reasonable estimate of the amount to be awarded. Property damage may be measured by repair cost or by value, as appropriate. Replacement cost is not usually allowed. Thus, if a tenant has destroyed or removed a landlord-provided carpet, the tenant's liability must be adjusted for the age and condition of the carpet, since the tenant is liable only for lost value. While the court should not impose an unreasonable burden of proof, judges handling property damage claims in landlord-tenant cases have traditionally sought to make sure that such claims are legitimate and that the amount claimed as damages is not inflated.” (Citations omitted; Internal quotations omitted.) *Agostino v. Cary*, Superior Court, judicial district of Stamford-Norwalk, housing session, Docket No. CV 090006838 (October 20, 2011, Maronich, J.).

“The [fact-finding] function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and, parties....” (Internal quotation marks omitted.) *Cavolick v. DeSimone*, 88 Conn. App. 638, 646, 870 A.2d 1147, cert. denied, 274 Conn. 906, 876 A.2d 1198 (2005). “The sifting and weighing of evidence is peculiarly the function of the trier [of fact].... The trier is free to accept or reject, in whole or in part, the testimony offered by either party.... That determination of credibility is a function of the trial court.” (Citations omitted; internal quotation marks omitted.) *Heritage Square, LLC v. Eoanou*, 61 Conn. App. 329, 333, 764 A.2d 199 (2001).

The court has carefully considered and weighed all the evidence received at trial, evaluated the credibility of the witnesses, assessed the weight to be given to specific evidence, measured the probative force of conflicting evidence, reviewed all exhibits and relevant law, and has drawn such inferences from the evidence, or facts established by the evidence, that it deems reasonable and logical. Based upon the evidence, the court makes the following findings.

On or about August 1, 2021, the parties entered into a lease agreement for a one-year term for the property located at 160 Westminster Street, Hartford, Connecticut 06112. The agreement provided that the defendant would pay \$1,500 in rent per month. The lease between the parties also provides, in relevant part, that the tenant agrees to return the leased premises to the landlord in the same condition it was at the beginning of the lease agreement. Further the lease provides that neither the landlord nor its agent has made promises regarding the condition of the leased premises. On October 18, 2022, the plaintiffs filed a summary process action (Docket No. HFH CV 225007079), where judgment of possession entered for the plaintiffs on the basis of lapse of time.

The defendant vacated the premises on or about February 1, 2023. The plaintiffs brought the current action seeking \$9,000 in damages for unpaid rent dating back from September 1, 2022, through February 1, 2023. Further, the plaintiffs allege that upon the defendant vacating, the property was left with multiple items in need of repair, as well as a strong odor, and discarded items. Additionally, the plaintiffs allege that upon vacating the premises, the defendant left her pitbull dogs behind, and they urinated and defecated on the floors and carpets. Therefore, the plaintiffs claim \$4,319.60, the cost estimated to replace the floors and carpets, \$569.13 to replace four doors and keys, \$2,000 for supplies to repaint the entire house, and court filing fees.

The court will first address the plaintiffs' claim for unpaid rent from September 1, 2022 through February 1, 2023, when the defendant vacated the premises. Connecticut General Statutes § 47a-7 sets forth the responsibilities of a landlord to his tenants. "As well as complying with all applicable building and housing codes of the State or any political subdivision thereof, a landlord is mandated to make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition. The remedies available to a tenant in the event of a

landlord's dereliction of these statutory duties are various: the tenant may withhold his rental payment, § 47a-4a; the tenant may initiate an action to compel the landlord to perform his legal duties, § 47a-14h; or the tenant may interpose the landlord's noncompliance as a defense in a summary process action, § § 47a-20, 47a-33." *Visco v. Cody*, 16 Conn.App. 444, 547 A.2d 935 (1988).

At trial, the defendant argued that no rent was due to the plaintiffs based on the condition of the premises. The defendant presented a letter dated August 12, 2022, from the Housing Authority of the City of Hartford, that was sent to both parties to inform them that commencing September of 2022, the program would abate rental payments to the plaintiff landlords because the premises failed to meet minimum "Housing Quality Standards." The attached inspection report indicated that the premises contained missing ceiling panels in the basement, a broken bedroom door, and an infestation of mice. Additionally, the defendant provided credible photographs and testimony regarding the condition of the premises while she resided there. The defendant submitted sufficient evidence of significant infestation, as well as holes in the walls created by mice. Further, the evidence establishes that as of August 1, 2022, there were missing ceiling panels in the basement, broken doors in the premises, a broken toilet, as well as damage in the property from leaking occurring in the basement.

In the summary process action involving the parties (Docket No. HFH CV 225007079), the defendant claimed as her defense that the premises were in poor condition and specifically cited: a bathroom in need of repair, holes in the walls, leaking in the basement, and the need for the extermination of rodents. This further adds credibility to the defendant's claim. While the plaintiffs established that they made some repairs, mainly the electronic outlets and the toilet, there is no evidence to suggest the mouse infestation had been remediated. Further, the apartment

was never reinspected by the Housing Authority because the defendant permanently lost her housing voucher as a result of the plaintiffs' demands that the defendant fraudulently pay an additional amount of rent outside of the parties' contract with the Housing Authority.

Therefore, in the present action, the defendant established that the premises were untenable and submitted sufficient evidence that the premises failed to meet the standards established by the Housing Authority for decent, safe, and sanitary housing. Thus, the court finds that no rent was due to the plaintiffs for the time period alleged, due to the condition of the premises pursuant to General Statutes § 47a-7.

The court now considers the plaintiffs' claim to recover the cost of repairs for damages they incurred after the defendant relinquished the premises. The burden of proof is on the plaintiffs to prove, by a fair preponderance of the evidence, the defendant is responsible for the damages claims they are raising. The plaintiffs allege that upon the defendant's departure from the premises, the premises contained the following defects: 1) broken doors; 2) the need to be repainted entirely; 3) damaged flooring; 4) trash left behind; 5) a strong odor; 6) missing keys; and 7) the stove was dirty and had missing knobs.

General Statutes § 47a-11(f) sets out the tenant's statutory duties, of which the most general is the duty to "not willfully or negligently destroy, deface, damage, impair or remove any part of the premises or permit any other person to do so." Thus, a tenant is thus liable for willful or negligent property damage. "Since tenant liability must be based on willful or negligent conduct, the mere fact of damage does not necessarily make the tenant liable.... [T]he landlord must prove that (a) the damage occurred, (b) it exceeded normal wear and tear, and (c) it was caused by the tenant. Damage may be shown either by direct evidence or circumstantially.... The tenant is also not liable for what is usually described as 'normal' or 'reasonable' wear and tear.

The determination of what is wear and tear, as distinct from what is property damage, is heavily dependent on the facts of the case; but in general, it refers to deterioration of or damage to the property which can be expected to occur from normal usage.” *Agostino v. Cary*, supra.

The court declines to award the plaintiffs damages for the cost of replacing the doors because the evidence suggests that at least one of these doors were damaged in August of 2022, when the premises failed inspection by the Housing Authority. Further, the photographs submitted also depict a door hanging off of the frame, as well as a broken screen door, all of which occurred prior to the defendant vacating the premises. The plaintiffs submitted multiple photos that depicted the condition of the property at the time of the defendant’s departure. However, a substantial amount of the photos submitted by the plaintiffs were date stamped July of 2022. As with the majority of the damages claimed by the plaintiffs, it was impossible, from the evidence presented, to determine whether the conditions were caused by the plaintiffs’ failure to make needed repairs or by the defendant’s neglect. Therefore, the court denies this requested claim.

As it relates to the plaintiffs’ claim for the costs to repaint the entire house, the evidence provides no proof of damages sufficient to award the \$2,000 in supplies to repaint. “A landlord rents his property subject to the expectation of reasonable wear and tear. A tenant is not liable for routine cleaning, repainting, and correcting minor damages.” *Grzewinski v. George*, Superior Court, judicial district of New Britain, Docket No. CVN 9003-914-BR (November 20, 1990, Berger, J.). “Wear and tear also include normal repainting and cleaning which occur at the end of a tenancy. The tenant is not liable for nail or pin holes in a plaster wall which would ordinarily be spackled as part of a routine repainting. Each claim must be evaluated on its own merits, in light of the general principle that some wear and tear is inevitable in rental property.” *Agostino v.*

*Cary*, supra. The plaintiffs did not prevail by a fair preponderance of the evidence in establishing that all of the painting that was done was attributable to the defendant as beyond normal wear and tear requiring the entirety of the premises to be fully repainted. Therefore, the court denies this claim.

The plaintiffs further claim the cost to replace the flooring in the premises in the amount of \$4,319.60. The plaintiffs allege that the flooring needed to be replaced as a result of the defendant leaving her dogs behind after she vacated the property. In establishing the value of the cost to repair the flooring, the plaintiffs provided the court with an estimate by the flooring company in the amount of \$4,319.60, which indicates it is an estimate only and subject to change. No final contract was provided to replace floors from the flooring company, and no proof of payment was provided to suggest these repairs were in fact made. Even assuming the plaintiffs replaced the flooring, the plaintiffs did not meet their burden in establishing that the defendant caused sufficient damage to the flooring to require the entirety of the flooring in the premises to be replaced. The defendant's dogs did remain on the premises for a time period after the defendant vacated, however, the urination and defecation of the pets would require that the flooring be cleaned and repaired, but not necessarily replaced in its entirety.<sup>1</sup> The receipt provided did not provide sufficient detail regarding the work that was to be completed for the court to determine the plaintiffs' damages with reasonable certainty. Therefore, the court denies the requested claim.

The plaintiffs also claim damages as a result of discarded items remaining in the premises. The court is unable to identify the costs associated with the disposal of the discarded items or costs associated with the cleanup of garbage remaining on the premises. Therefore, the

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<sup>1</sup> The defendant did return to retrieve her pet dogs at a later time upon the plaintiffs' request.

court has no reasonable way to determine a fair award for those items and denies the plaintiffs' claim.

Considering the photographic, testimonial, and documentary evidence of the condition of the premises introduced by both parties at the trial, this court delineates the following conditions at the termination of the tenancy that constitutes greater than normal wear and tear for which the defendant would be liable: 1) a dirty oven with missing knobs; 2) no key returned to the plaintiffs; 3) damage done to the floors as a result of the defendant's pet dogs remaining on the premises after the defendant moved out; and 4) trash left behind by the defendants after their departure.

The defendant paid to the plaintiffs a security deposit in the amount of \$1,500 which was intended to cover the cost of damage, cleaning, excessive wear and tear, and unreturned keys. The court finds that the plaintiffs did not satisfy their burden as to establishing the costs related to the enumerated claims, and thus the plaintiffs are not entitled to damages beyond the security deposit withheld. The court has considered all claims and perceived damages and only awards the above as credits towards the security deposit. Consequently, the court finds that the plaintiffs were already compensated for the costs incurred for damages caused by the defendant by way of the security deposit that was withheld, in the amount of \$1,500.

Notice sent to:

- Ailfe Blake,
- Coreene Blake,
- Tashana Richards-Caulton
- COLP

BY THE COURT,

  
THAMAR ESPERANCE-SMITH, JUDGE



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