

DOCKET NO. TTD-CV-235017444-S : SUPERIOR COURT
ERIVALDO SILVEIRA AND : JUDICIAL DISTRICT OF TOLLAND
IEVA SILVEIRA
v. : AT ROCKVILLE
BRITTNEY MARIE MILLER : APRIL 30, 2024
AND VINCENT L.
FRANGIAMORE-BASKERVILLE

received
4/30/24

MEMORANDUM OF DECISION FOLLOWING TRIAL

In July 2017, the plaintiffs, Erivaldo Silveira and Ieva Silveira, as lessors, entered into a lease agreement with the defendants, Brittney Marie Miller and Vincent L. Frangiamore-Baskerville, as lessees, regarding a residential property located at 105 Brooklyn Street in Vernon, Connecticut. The parties subsequently made numerous revisions to the lease agreement over the next five years. The last lease signed by the parties covered a tenancy period from August 1, 2020 through July 31, 2021, with a monthly rent of \$1225. Sometime after July 31, 2021, the parties agreed to increase the monthly rent to \$1375 and the defendants gave the plaintiffs a security deposit of \$2750. In May 2023, the plaintiffs informed the defendants that they intended to increase their monthly rent to \$1985 and to eliminate the defendants' parking. On May 23, 2023, the defendants made their last payment to the plaintiffs and continued residing on the premises until June 10, 2023.

The plaintiffs allege that the defendants breached the lease agreement by causing damage to the premises beyond reasonable wear and tear and by failing to pay the rent due on June 1, 2023. The plaintiffs also allege that they were forced to make numerous repairs to the property, including removing furniture and debris; cleaning rooms, ceilings, cabinets, moldings, doors, trims, appliances, floors, carpets, and tiles; repairing damage to walls, trims, kitchen cabinets, windows, floors, locks, and doors; replacing the kitchen counter, mini blinds, entry locks, smoke alarms, a broken window, a

Memorandum sent on 4/30/24 to:
Erivaldo Silveira - mail
Ieva Silveira - mail
Brittney M. Miller - mail
Vincent L. Frangiamore-Baskerville - mail

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Erivaldo Silveira

window ledge, and a wall in the laundry room; painting walls and ceilings; and treating for nicotine damage. The plaintiffs allege that some of this damage resulted from water leaking from an air conditioning unit and from the defendants' bathroom fixtures, and that the nicotine treatment resulted from the defendants smoking in the property in violation of an addendum to the lease agreement. The defendants also removed several smoke alarms. The plaintiffs allege that the defendants are responsible for these damages pursuant to the terms of the lease agreement and General Statutes § 47a-11.

The defendants acknowledge responsibility for a broken window and a hole in one of the walls and for failing to clean the premises before leaving, having left a certain amount of furniture and trash on the premises. Regarding most of the other items claimed by the plaintiffs, the defendants contend that they fall well within ordinary wear and tear for which they are not responsible. As for the alleged nicotine damage, the defendants deny that they ever smoked inside the premises. Although the defendants admit smoking on the enclosed porch, they claim that Erivaldo Silveira gave them permission to do so; an assertion the plaintiffs deny.

On March 5, 2024, the case was tried before the court. The court received testimony from both parties as well as a plethora of documentary evidence, including numerous photographs introduced by the plaintiffs showing the condition of the premises. The plaintiffs introduced an "Inspection Check-List" that was signed by the defendants in 2017 following their inspection of the premises indicating that "everything is up to par." The plaintiffs also introduced a letter dated April 10, 2023 regarding water damage the plaintiffs claim resulted from the defendants' improper use of an air conditioning unit and two overflows from the defendants' bathroom fixtures.

Ieva Silveira testified that, on June 10, 2023, she entered the premises while the defendants were in the process of moving and cleaning because she received a complaint from another tenant that an animal had entered the premises. Brittney Marie Miller testified that no animals had ever entered the

premises and that, although she intended to complete cleaning up, she became upset during Ieva Silveira's inspection, at which point she decided to leave and not return. The defendants deny that they acted maliciously in failing to complete the cleanup of the premises.

Based on the evidence and testimony provided, the court concludes that the plaintiffs presented credible evidence and met their burden of proof regarding several of their claimed damages. See *Scofield v. Gagnon*, Superior Court, judicial district of Middlesex, Docket No. CV-22-6035790-S, 2023 WL 8431650 (November 27, 2023, *Shah, J.*). "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); see also *Summerhill, LLC v. Meriden*, 162 Conn. App. 469, 474, 131 A.3d 1225 (2016); *Keller v. Beckenstein*, 117 Conn. App. 550, 558, 979 A.2d 1055, cert. denied, 294 Conn. 913, 983 A.2d 274 (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." (Citations omitted; internal quotation marks omitted.) *24 Leggett Street L.P. v. Beacon Industries, Inc.*, 239 Conn. 284, 308-309, 685 A.2d 305 (1996).

The court concludes that the plaintiffs have proven the following damages: (1) \$1375 for the rent that became due and owed on June 1, 2023; (2) \$175 for the carpet cleaning the defendants admit they were obligated to complete; (3) \$90 for the curbside removal by Public Works of the furniture and other material the defendants admittedly left on the premises; (4) \$543.40 for water damage caused by the leaking air conditioning unit and bathroom fixtures; (5) \$11.98 for a missing fire extinguisher; (6) \$120 to replace a glass window admittedly broken by the defendants' children; and (7) \$318 for missing smoke alarms and a carbon monoxide detector. These damages add up to a total of \$2633.38. The

defendants also admit responsibility for creating or exacerbating a hole in one of the walls. Although the plaintiffs did not separately value the damage of the wall, the court finds that \$116.62 constitutes a reasonable sum to effectuate its repair and therefore awards the plaintiffs that amount in additional damages, thereby bringing the total amount of damages awarded to \$2750.

As for the other damages claimed by the plaintiffs, the court finds that the plaintiffs failed to satisfy their burden of proving that these damages exceeded normal wear and tear. The court notes that the defendants resided in the property for approximately six years, and it is not unreasonable to expect a certain amount of wear and tear to occur during that period, or that the plaintiffs would be required to undertake certain repairs to the property before entering into a new lease agreement with a new tenant. The court also concludes that the plaintiffs did not meet their burden of proving that the defendants violated the no smoking provision of the lease agreement. In reaching this conclusion, the court credits the testimony of the defendants that they never smoked inside the property and that they were told by Erivaldo Silveira at the inception of the lease agreement that they had permission to smoke on the enclosed porch. The court also notes that the plaintiffs never informed the defendants at any time during their six-year tenancy that they were in violation of the no smoking policy.

Having carefully considered the testimony and documentary evidence submitted by the parties, including the lease agreement, photographs, and repair records, the court concludes that the plaintiffs have sustained their burden of proving damages totaling \$2750.

For all of the forgoing reasons, the court hereby enters judgment in favor of the plaintiffs and against the defendants for \$2750.

BY THE COURT.


MATTHEW DALLAS GORDON, J.