

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LYCOMING COUNTY HOUSING AUTHORITY, : NO. 17-1565  
Plaintiff, :  
 :  
 :  
vs. : CIVIL ACTION  
 :  
 :  
 :  
NAJA J. HOUSE, :  
Defendant. : *Decision after Trial*

**MEMORANDUM OPINION**

This matter concerns a landlord-tenant dispute between Lycoming County Housing Authority (“Plaintiff”) and Naja J. House (“Defendant”). Plaintiff initiated eviction proceedings in the Magisterial District Court after Defendant failed to make timely rental payments for June, July, August, and September 2017. On October 23, 2017, the Magisterial District Court issued its decision, finding for Plaintiff in the total amount of \$1,012.14.<sup>1</sup>

On November 1, 2018, Defendant appealed the magistrate’s decision to this Court.<sup>2</sup> On February 6, 2019, a *de novo* trial was held before this Court and the Court reserved decision.<sup>3</sup> Plaintiff originally sought: eviction, \$876.50 for overdue rent and excess utility and trash removal charges as of October 1, 2017, \$200.00 in rent for November 2017, \$50.00 in late charges for October and November 2017, and \$135.64 in court costs.<sup>4</sup> Plaintiff now requests \$3,000.00 in additional rent for December 2017 to

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<sup>1</sup> *Lycoming County Housing Authority v. House*, No. LT-128-17, Memorandum Opinion at 5 (Oct. 23, 2017) (\$876.50 for rental arrears and \$135.64 for court costs).

<sup>2</sup> Pa.R.C.P.M.D.J. No. 1002(B).

<sup>3</sup> Pa.R.C.P.M.D.J. No. 1007; Pa.R.A.P. Rule 702(a); *accord Providence Builders, Inc. v. Com.*, 492 A.2d 488, 489 (Pa. Commw. Ct. 1985) (“We note preliminarily that ‘[a]n appeal from a judgment of a [district justice] is not an action de novo. The basis of the trial in the common pleas [court] must be the identical cause of action brought before the [district] justice. While the trial is de novo, the cause of action must remain the same.’” (internal citation omitted)).

<sup>4</sup> Plaintiff’s Complaint, ¶¶12-14 (Nov. 20, 2017).

February 2019 and \$300.00 in late charges for March 2018 to February 2019.<sup>5</sup>

Plaintiff's current demand is \$4,537.14 less Defendant's payments to the Prothonotary office as of February 6, 2019, which total \$1,496.00.<sup>6</sup> Therefore, Plaintiff demands \$3,041.14.<sup>7</sup>

Defendant argues that Plaintiff's attempt to evict her was improper because its notices failed to adhere to federal regulation requirements, including improper charges and dates for alleged violations, and Plaintiff failed to allow her until October 5, 2017 to cure the original \$876.50 deficit.<sup>8</sup> Regarding Plaintiff's updated demands, Defendant argues that Plaintiff cannot demand late fees on Defendant's rental payments to the Prothonotary's Office escrow account since Plaintiff was free to request release of those funds at any time, or ask that the stay be lifted.<sup>9</sup>

Based on the testimony, documentary evidence, argument, and applicable law, the Court finds the following.

### **FINDINGS OF FACT**

1) Plaintiff is a housing authority organized and operating pursuant to the Pennsylvania Housing Authority Law and its principal place of business is 1941 Lincoln Drive, Williamsport, Pennsylvania.<sup>10</sup> Plaintiff's principal place of business is located in Lycoming County.

2) Defendant is an adult individual who resides at 1630 Catherine Street, Williamsport, Pennsylvania (the "Property"). Defendant resides in Lycoming County.

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<sup>5</sup> Plaintiff's Amended Trial Brief, ¶12 (Feb. 6, 2019).

<sup>6</sup> *Id.*, ¶¶13-14.

<sup>7</sup> *Id.*, ¶14.

<sup>8</sup> See 24 C.F.R. § 966.4(e)(8)(i).

<sup>9</sup> See PA.R.C.P.M.D.J. No. 1008(B) ("Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.").

<sup>10</sup> 35 P.S. § 1541 *et seq.*

- 3) On August 31, 2015, the parties entered into a written lease agreement (the "Agreement") for the Property.<sup>11</sup> The Agreement's year term began in August 1, 2015 and ended on August 1, 2016.
- 4) The Agreement was renewed verbatim for August 2016 to August 2017 and August 2017 to August 2018.
- 5) Ms. Gina Waltz ("Ms. Waltz"), Residential Services Coordinator for Plaintiff, met with Defendant each time Defendant signed a lease agreement and spent approximately three (3) hours explaining the lease agreement terms to Defendant.
- 6) Ms. Waltz specifically discussed the importance of making timely rental payments and termination procedures with Defendant.
- 7) Defendant did not pose any questions to Ms. Waltz regarding the lease agreements.
- 8) Defendant did not formally utilize the grievance procedure and attempt to have her rental charges lowered through re-certifications that she initiated.<sup>12</sup>
- 9) The Agreement provides that Defendant was required to pay \$200.00 on the first of each month. If Defendant was more than five (5) days late in paying the rent, then a \$25.00 late charge would be attached to the rent due.
- 10) The Agreement allowed for termination after "[r]epeated late payment," which was defined as three late rental payments.<sup>13</sup>
- 11) Defendant began experiencing financial hardships in June 2017 that prevented her from making timely rental payments.<sup>14</sup>

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<sup>11</sup> Plaintiff's Exhibit 7; Defendant's Exhibit A. All proffered exhibits were admitted into evidence without objection.

<sup>12</sup> See 24 C.F.R. § 966.4(n).

<sup>13</sup> Plaintiff's Exhibit A, at 15-16.

12) Ultimately, Defendant failed to pay her rent on time for June, July, August, and September 2017.

13) Defendant was also unable to pay additional charges for excess water, excess trash, and work orders from June to October 2017.<sup>15</sup>

14) On September 8, 2017, Plaintiff mailed a Notice of Proposed Adverse Action, Notice of Eviction (the "Notice") to Defendant.<sup>16</sup>

15) Ms. Waltz also sent notices to Defendant regarding the additional charges.<sup>17</sup>

16) The Notice informed Defendant that her lease was being terminated in thirty (30) days for her failure to make timely rental payments over three months.<sup>18</sup> The Notice also informed Defendant that she owed \$622.50 in "rent/charges."<sup>19</sup>

17) By October 1, 2017, Defendant's balance due had increased to \$876.50.<sup>20</sup> This increase included \$200.00 in rent for October 2017, a \$50.00 charge for a work order, and a \$4.00 charge for excess trash.<sup>21</sup>

18) During discussions between the parties to resolve the matter, Plaintiff requested that Defendant pay the \$876.50 by October 1, 2017.<sup>22</sup>

19) Defendant was unable to satisfy the \$876.50 she owed by October 1, 2017.

20) On October 9, 2017, Plaintiff filed the Notice with the Magisterial District Court.<sup>23</sup>

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<sup>14</sup> Defendant testified that her financial troubles were based in part on the financing of a vehicle and the passing of her father who was a financial support.

<sup>15</sup> Plaintiff's Exhibit C.

<sup>16</sup> Plaintiff's Exhibit B.

<sup>17</sup> At trial, Defendant did not dispute that she received these notices.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Plaintiff's Exhibit C.

<sup>21</sup> *Id.*

<sup>22</sup> Defendant's Exhibits 1-4.

<sup>23</sup> *Id.*

## CONCLUSIONS OF LAW

- 21) The relationship between Plaintiff and Defendants in this case is governed by the Pennsylvania Landlord-Tenant Act (the “Act”), 68 P.S. §250.101 *et seq.*
- 22) Plaintiff’s Notice complies with the Act.<sup>24</sup>
- 23) Title twenty-four (24) of the Code of Federal Regulations also governs Plaintiff’s actions as a public housing authority.
- 24) Plaintiff’s Notice was drafted in accordance with the requirements of federal regulations that the Notice “notify the tenant of the specific grounds for any proposed adverse action.”<sup>25</sup>
- 25) Plaintiff’s Notice was sent in accordance with the requirements of federal regulations regarding timeliness and substantive inclusion.<sup>26</sup>
- 26) Defendant breached the Agreement by failing to make rental payments on three occasions.<sup>27</sup>
- 27) The “Pay-and-Stay” provision, which allows a tenant to remain in the rental unit if he or she cures the rental deficient, is not applicable here because Plaintiff is requesting possession based on breach of the Agreement.<sup>28</sup>

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<sup>24</sup> 68 P.S. § 250.501(b) (“(b) Except as provided for in subsection (c), in case of the expiration of a term or of a forfeiture for breach of the conditions of the lease where the lease is for any term of one year or less or for an indeterminate time, the notice shall specify that the tenant shall remove within fifteen days from the date of service thereof, and when the lease is for more than one year, then within thirty days from the date of service thereof. In case of failure of the tenant, upon demand, to satisfy any rent reserved and due, the notice shall specify that the tenant shall remove within ten days from the date of the service thereof.”).

<sup>25</sup> See 24 C.F.R. § 966.4(e)(8)(i). Defendant relies on *Brinton Manor Apartments v. McKinley* to argue that Plaintiff’s notice was insufficient; however, the lease agreement involved in *McKinley* included the greater specificity language found in 24 C.F.R. § 247.4. See 142 Pitt. L.J. 51, 52 (Allegh. Com. Pl. 1994).

<sup>26</sup> See 24 C.F.R. § 966.4(l)(3).

<sup>27</sup> See *Eaton v. Citibank N.A.*, 2010 WL 936555, at \*3 (M.D. Pa. Mar. 15, 2010) (“To prevail on a breach of contract claim in Pennsylvania, a plaintiff must prove three elements: ‘[ (1) ] the existence of a contract, including its essential terms, (2) a breach of a duty imposed by the contract and (3) resultant damages.’ ” (quoting *Omicron Systems v. Weiner*, 860 A.2d 554, 564 (Pa.Super.Ct.2004)).

<sup>28</sup> See Pa.R.C.P.M.D.J. No. 518. Defendant agrees that this provision is inapplicable.

- 28) Because Plaintiff is seeking eviction based on Defendant's failure to pay rent for June, July, August, and September 2017, Plaintiff was not required to wait until October 5, 2017 before filing the Notice with the Magisterial District Court.
- 29) Defendant testified to payments made after this matter proceeded in the Magisterial District Court; however, Plaintiff failed to meet its burden of establishing damages due after November 2017. Therefore, damages will not be calculated after November 2017.
- 30) There is insufficient evidence to establish that Defendant made a payment of \$800.00 to Ms. Waltz and that the payment was made prior to the matter proceeding in the Magisterial District Court.
- 31) While the Court is sympathetic to the hardships that Defendant has faced, the Act does not allow consideration of her circumstances when a breach of contractual terms has been established.
- 32) The Court finds that Plaintiff is entitled to \$876.50 in damages, as well as any funds Defendant deposited with the Prothonotary.<sup>29</sup>
- 33) In addition, based on the Agreement, the Court finds that Plaintiff is only entitled to the court costs in the Magisterial District Court—i.e. \$135.64.<sup>30</sup>
- 34) The Court also finds that Plaintiff is entitled to possession of the Property.

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<sup>29</sup> *Davis v. Borough of Montrose*, 194 A.3d 597, 611–12 (Pa. Super. Ct. 2018) (“The Pennsylvania Supreme Court has discussed the damages prong of the breach of contract analysis as follows: ‘Where one party to a contract, without any legal justification, breaches the contract, the other party is entitled to recover, unless the contract provided otherwise, whatever damages he [or she] suffered, provided (1) they were such as would naturally and ordinarily result from the breach, or (2) they were reasonably foreseeable and within the contemplation of the parties at the time they made the contract, and (3) they can be proved with reasonable certainty.’” (quoting *Ferrer v. Trustees of the Univ. of Pennsylvania*, 825 A.2d 591, 610 (Pa. 2002)).

<sup>30</sup> Plaintiff's Exhibit A, at 4.

**VERDICT**

**AND NOW**, this **12<sup>th</sup> day of February 2019**, for the reasons discussed above, the Court hereby finds in favor of Plaintiff in the amount of **\$1,012.14** plus funds Defendant deposited with the Prothonotary. The Prothonotary is directed to release said funds to Plaintiff.

BY THE COURT,

Eric R. Linhardt, Judge

cc: Kathleen O'Donnell Raker, Esquire  
Norman M. Lubin, Esquire  
Suzanne M. Fedele, Lycoming County Prothonotary  
Gary Weber, Esq. (Lycoming Reporter)