

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LENUS R. SMITH,
Plaintiff/Appellee,

v.

KAREN SAMPSON,
Defendant/Appellant.

: CV-19-0810

:

:

: CIVIL ACTION -

: District Court Appeal

:

: *Decision Post-Trial*

DECISION AFTER TRIAL

On May 17, 2019, the magisterial district court judge found in favor of Plaintiff Lenus R. Smith ("Plaintiff") in the amount of \$525.00 for rental arrears and \$143.57 for court costs. On May 22, 2019, Defendant Karen Sampson ("Defendant") appealed to this Court. On June 11, 2019, Plaintiff filed his Complaint, averring that Defendant violated the parties' lease agreement in a variety of ways. Defendant did not file an answer. On July 11, 2019, a civil pretrial was scheduled, but Defendant did not appear. On August 15, 2019, a bench trial in this matter was held before the Court. Both parties appeared and were comfortable proceeding *pro se*. At trial, Plaintiff asserted that he is now only seeking Defendant's rental payments that the Lycoming County Prothonotary is holding in escrow and Defendant's eviction.¹ The Court reserved decision. This is the Court's final decision after trial.

FINDINGS OF FACT

- 1) Plaintiff is the landlord and owner of 1715 ½ Blaine Street in Williamsport, Pennsylvania (the "Property").²
- 2) Defendant has been a tenant at the Property since October 1, 2018.³

¹ Unofficial Draft Transcript at 27-28 (Aug. 15, 2019) [hereinafter "Tr."].

² Tr. at 4.

³ *Id.*

- 3) The parties never signed a lease agreement.⁴
- 4) Plaintiff did not follow various clauses of his own proposed lease agreement, which was not signed.⁵
- 5) Plaintiff did not discuss his Landlord obligations and Defendant's obligations as a tenant with Defendant, except for her rental obligation which was relayed to her by her son.⁶
- 6) Plaintiff charged \$525.00 per month for rent.⁷
- 7) Plaintiff and Defendant did not agree that Defendant would pay for the Property's water and gas utilities, as Plaintiff simply presumed Defendant would pay.⁸
- 8) Defendant has not defaulted on her obligations.⁹ She made timely rental payments to Plaintiff's property manager and paid the monthly electricity bill.¹⁰
- 9) Defendant's payments for June 2019, July 2019, and August 2019 were submitted to the Lycoming County Prothonotary, which currently possesses these three payments in escrow.¹¹
- 10) Plaintiff claims he gave Defendant an informal eviction notice on March 3, 2019 for her to vacate the Property by April 1, 2019; however, he did not possess the

⁴ Tr. at 4, 6, 32-33.

⁵ Tr. at 6-7.

⁶ Tr. at 8, 17, 31-32, 36-37.

⁷ Tr. at 9.

⁸ Tr. at 17-18.

⁹ Tr. at 19, 30-31.

¹⁰ Tr. at 33-34, 37.

¹¹ See 68 P.S. § 250.513(a) ("Every tenant who files an appeal to a court of common pleas of a judgment of the lower court involving an action under this act for the recovery of possession of real property or for rent due shall deposit with the prothonotary a sum equal to the amount of rent due as determined by the lower court.").

original notice or a copy of the original notice at trial.¹²

11) Defendant only allowed her United Disability Service (“UDS”) nursing aid access to the Property’s communal washer and dryer.¹³

12) Defendant did not disrupt the other tenants by utilizing a television or radio at an oppressive volume, or after engaging in heavy drinking.¹⁴

13) Defendant did not smoke inside the Property.¹⁵

CONCLUSIONS OF LAW

1) “Real property, including any personal property thereon, may be leased for a term of not more than three years by a landlord or his agent to a tenant or his agent, by oral or written contract or agreement.”¹⁶

Defendant Did Not Breach the Parties’ “Implied-in-Fact” Contract

2) “[I]n determining whether an agreement is enforceable, we must examine whether both parties have manifested an intent to be bound by the terms of the agreement, whether the terms are sufficiently definite, and whether consideration existed. If all three of these elements exist, the agreement shall be considered valid and binding.”¹⁷

3) Plaintiff failed to meet his burden of proof regarding the terms of an oral agreement.¹⁸

¹² Tr. at 11-13.

¹³ Tr. 13, 20-23, 30.

¹⁴ Tr. at 13, 24-25, 29.

¹⁵ Tr. at 16, 23, 35-36.

¹⁶ 68 P.S. § 250.201.

¹⁷ *Johnston the Florist, Inc. v. TEDCO Const. Corp.*, 657 A.2d 511, 516 (Pa. Super. Ct. 1995).

¹⁸ See *Stumpp v. Stroudsburg Mun. Auth.*, 658 A.2d 333, 335 (Pa. 1995) (“It is basic contract law that one cannot suppose, believe, suspect, imagine or hope that an offer has been made. An offer must be intentional, definite, in its terms and communicated; otherwise, no meeting of the minds can occur.”).

4) A meeting of the minds between the parties did not occur as to specific terms of the oral agreement.¹⁹ For instance, whether the lease was for a monthly or annual term or the specific utilities Defendant would be required to pay.

5) In circumstances where the parties fail to agree in writing or verbally, the law often presumes an “implied-in-fact” contract.²⁰

6) “An implied contract is one where the parties assent to formation of a contract, but instead of being expressed in words, the intention to incur an obligation is inferred from the conduct of the parties in light of the surrounding circumstances, including the course of dealing.”²¹

7) The implied contract evidenced by the parties’ actions in this case establishes that Defendant would be allowed to reside as a tenant in the Property as long as she paid \$525 in monthly rent to Plaintiff and the electricity bills.²²

8) The Court does not find Plaintiff’s testimony credible that Defendant only paid \$410.00 for January 2019, \$200.00 for February 2019, and \$280.00 for March 2019. In addition, no receipts were provided to the Court.²³

9) Because one of the Court’s findings is that Defendant did not default on her monthly payments or electricity bills, Plaintiff has not breached the parties’ implied-

¹⁹ See *Preisinger v. Fox*, 2015 WL 7254046, at *2 (Pa. Super. Ct. Nov. 17, 2015) (“ ‘In order to form a contract, there must be an offer, acceptance, and consideration or mutual meeting of the minds.’ ”) (quoting *Yarnall v. Almy*, 703 A.2d 535, 538 (Pa. Super. Ct. 1997)).

²⁰ See *Crawford's Auto Ctr., Inc. v. Com., Pennsylvania State Police*, 655 A.2d 1064, 1066 (Pa. Commw. Ct. 1995).

²¹ *Id.*

²² *Am. & Foreign Ins. Co. v. Jerry's Sport Ctr., Inc.*, 2 A.3d 526, 534 (Pa. 2010) (“An implied-in-fact contract is a contract that the parties ‘presumably intended as their tacit understanding, as inferred from their conduct and other circumstances.’ ” (quoting BLACK’S LAW DICTIONARY (8th ed. 2004))).

²³ Tr. at 10-11. Plaintiff included a photocopy of a receipt with his Complaint; however, this receipt was not provided at trial. Tr. at 15; see *infra* note 25. In addition, Plaintiff scribbling on a “brown paper bag” is

in-fact contract.

Plaintiff's Attempt to Evict Defendant was Improper

10) "A landlord desirous of repossessing real property from a tenant [inapplicable exception] may notify, in writing, the tenant to remove from the same at the expiration of the time specified in the notice under the following circumstances, namely, (1) Upon the termination of a term of the tenant, (2) or upon forfeiture of the lease for breach of its conditions, (3) or upon the failure of the tenant, upon demand, to satisfy any rent reserved and due."²⁴

11) Defendant did not breach the terms of their implied-in-fact contract.

12) Further, the Best Evidence Rule holds "An original writing, recording, or photograph is required in order to prove its content unless these rules, other rules prescribed by the Supreme Court, or a statute provides otherwise."²⁵

13) Plaintiff has not alleged an exception to the Best Evidence Rule;²⁶ therefore, Plaintiff's failure to bring the eviction notice to court prevents the Court from considering his verbal assurances of the eviction notice's contents.

Defendant's Allowance of Access was Lawful

14) "The tenant shall have a right to invite to his apartment or dwelling unit such employees, business visitors, tradesmen, deliverymen, suppliers of goods and

not an official receipt. Tr. at 37-38.

²⁴ 68 P.S. § 250.501(a).

²⁵ Pa.R.E. Rule 1002.

²⁶ Pa.R.E. Rule 1004 ("An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if: (a) all the originals are lost or destroyed, and not by the proponent acting in bad faith; (b) an original cannot be obtained by any available judicial process; (c) the party against whom the original would be offered had control of the original; was at that time put on notice, by pleadings or otherwise, that the original would be a subject of proof at the trial or hearing; and fails to produce it at the trial or hearing; or (d) the writing, recording, or photograph is not closely related to

services, and the like as he wishes so long as his obligations as a tenant under this article are observed. The tenant also shall have right to invite to his apartment or dwelling unit, for a reasonable period of time, such social guest, family or visitors as he wishes so long as his obligations as a tenant under this article are observed.”²⁷

15) Defendant’s allowance of her UDS nursing aid to access the Property’s communal washer and dryer was not a breach of the parties’ implied-in-fact contract or of Pennsylvania law.

VERDICT

For the reasons discussed above, the Court finds in favor of Defendant. Because the Court finds that Defendant is not in default on her rental payments, Plaintiff is only entitled to Defendant’s rental payments for June 2019, July 2019 and August 2019 that she deposited with the Lycoming County Prothonotary. **The Prothonotary is DIRECTED to release said funds to Plaintiff.**

Moreover, Plaintiff is not entitled to an eviction as Defendant remains current on her rental payments, Defendant did not violate the terms of their implied-in-fact contract, and proper notice of eviction was not provided.²⁸

a controlling issue.”).

²⁷ 68 P.S. § 250.504-A.

²⁸ Even if the Court did find that an agreement existed and Defendant violated that agreement, testimony was elicited at trial that Plaintiff no longer owns the Property. Tr. at 18 (Plaintiff states “I had the apartment for sale [. . .]”), 25 (Plaintiff states “whenever I talk[] to the new owner of the house [. . .]”), 33 (Defendant notes that a “for sale sign” was placed in the Property’s yard and Plaintiff admitted to selling the building when questioned.), 40 (Defendant again referencing the for sale sign and Plaintiff’s assertion

IT IS SO ORDERED this 26th day of August 2019.

BY THE COURT,

Eric R. Linhardt, Judge

cc: Karen Sampson
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Lenus Smith
P.O. Box 66
Woolrich, PA 17779
Gary Weber, Esq. (Lycoming Reporter)
Suzanne M. Fedele, Lycoming County Prothonotary

that he had sold the Property).