

IN THE FRANKLIN COUNTY MUNICIPAL COURT, COLUMBUS, OHIO
CIVIL DIVISION

Impala Capital, LLC	:	
Plaintiff,	:	
vs.	:	CASE NO. 2016 CVG 037940
Marvin James III, et al.	:	JUDGE
Defendant.	:	

ANSWER AND COUNTER-CLAIMS FOR MONEY DAMAGES

Now Come Defendants, by and through counsel, and hereby states the following:

1. Defendants admit the allegations in paragraphs 1.
2. Defendants admit they signed a lease, but by the very terms of the lease itself it never came into effect, as such Defendants deny there is a valid or binding written lease agreement between the parties. Defendants deny the remaining allegations made in paragraphs 2.
3. Defendants deny the allegations made in paragraph 3. The parties entered into an agreement whereby Defendants were to pay for maintenance and repairs to the property, which was Plaintiff's obligation, and in exchange Plaintiff would credit the amounts incurred to Defendants' rent. Plaintiff breached the agreement by failing to credit Defendants for the amounts paid. Plaintiffs are not permitted to charge late fees as there is no written lease in effect which permits late fees. Defendants do not owe for November rent due to payment and offset for improvements made to the property per an agreement between the landlord and tenants.

4. Defendants admit that Plaintiff served a notice to vacate on an adult at the rental premises, which notice states an incorrect balance. Plaintiff's actions incited panic and caused all of Defendants' workers to quit out of fear of nonpayment and feeling a lack of job security

5. Defendants deny the allegations made in paragraph 5 and 7.

6. Defendants deny any other allegations not specifically admitted herein.

AFFIRMATIVE DEFENSES

7. Plaintiff has failed to state a claim upon which relief may be granted.

8. Defendants paid rent for November 2016, and assert the defense of satisfaction.

9. Defendants are entitled to a set-off for amounts paid to improve the premises pursuant to an agreement with the Plaintiff to deduct those amounts.

10. Plaintiff is barred by the doctrines of waiver, estoppel, and unclean hands.

11. This court lacks jurisdiction over the subject matter.

12. The counterclaims exceed the jurisdiction of this court.

COUNTER-CLAIMS FOR MONEY DAMAGES

13. Defendants/Counterclaimants (hereinafter "Defendants") hereby incorporate all prior paragraphs as if fully rewritten herein.

14. Defendants signed a 5 year lease agreement on December 3, 2014 in front of a notary.

15. The lease agreement states in Section 1.01(A): "This lease agreement is only valid if it is executed by tenants by December 2, 2014." Therefore, the lease agreement never came into effect and is not valid. Further, Plaintiff never signed the lease agreement.

FIRST COUNTERCLAIM- BREACH OF CONTRACT

16. Defendants hereby incorporate all prior paragraphs as if fully rewritten herein.

17. The parties entered into an agreement whereby Plaintiff asked Defendants to make repairs and pay for maintenance to the property, which duties were Plaintiffs. In exchange, Plaintiff agreed to deduct the invoices from Defendants' rent for any and all maintenance and repairs Defendants paid to have made to the property.

18. In reliance upon their agreement with Plaintiff that Plaintiff would credit Defendants' rental account, Defendants spent an amount in excess of \$11,000 in maintenance and repairs to making Plaintiff's property fit and habitable, and to continue maintaining the property in a fit and habitable condition.

19. Thereafter, Plaintiff breached the agreement by failing to and refusing to deduct invoices for maintenance and repairs made to the property from Defendants' rent, and for actually filing two eviction actions against Defendants for non-payment of rent when Defendants do not owe rent.

20. Further, Plaintiff alleges Defendants owe money for a common area maintenance charge, such as for cleaning up the grounds and providing lighting in the parking lot. However, Plaintiff fails to provide these services for which it attempts to charge.

21. Defendants have been damaged in an amount in excess of \$11,000 due to Plaintiff's breach, plus reasonable attorney's fees.

SECOND COUNTERCLAIM- UNJUST ENRICHMENT

22. Defendants hereby incorporate all prior paragraphs as if fully rewritten herein.

23. Plaintiff's received a benefit in the form of money spent on maintenance and repairs to its property, and knew of the money Defendants paid on Plaintiff's behalf.

24. Plaintiff specifically requested that Defendants make certain repairs, in exchange for the promise that those amounts would be deducted from Defendant's rent.

25. In reliance upon Plaintiff's promise, Defendant thereafter paid for the maintenance and repairs to be made.

26. Plaintiff received a benefit which under the circumstances would make it unjust for Plaintiff to retain such benefits without paying for them. *Warren Concrete & Supply, Inc. v. Strohmeier Contracting, Inc.*, 11th Dist. Trumbull No. 2010-T-0004, 2010-Ohio-5395, ¶36, citing *Hambleton v. R.G. Barry Corp.*, 12 Ohio St.3d 179, 183 (1984).

27. Defendants' have been damaged in an amount in excess of \$11,000 due to Plaintiff's actions.

THIRD COUNTERCLAIM- TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS

28. Defendants hereby incorporate all prior paragraphs as if fully rewritten herein.

29. A business relationship exists between Defendants and their customers, and between Defendants and their workers. Plaintiff had knowledge of these business relations.

30. Plaintiff intentionally interfered with Defendants' business relations causing a breach or termination of the relationships, and damages resulting therefrom.

31. A landlord is not required to state the amount of the alleged debt owed on a 3 day

notice to vacate.

32. In September 2016, Plaintiff hand-delivered a 3-day notice to a worker at Defendants' place of business.

33. The 3-day notice falsely stated that Defendants owed Plaintiff an amount in excess of \$9,000 for unpaid rent.

34. In fact, Defendants did not owe Plaintiff any unpaid rent.

35. Plaintiff filed an eviction and then dismissed the entire case.

36. Defendants informed Plaintiff that the incorrect and large amount listed on the 3-day notice incited panic in Defendants' workers, and was a direct cause of 4 workers quitting due to concerns of payment of wages and job stability.

37. Even still, Plaintiff delivered a second 3-day notice in November 2016, which stated Defendants owed an amount in excess of \$12,000 for unpaid rent.

38. The 3-day notice falsely stated that Defendants owed Plaintiff an amount in excess of \$12,000 for unpaid rent.

39. The remaining 4 workers quit immediately after this second 3-day notice was served because the extremely large, incorrect balance listed on the 3-day notice incited panic in the workers due to concerns of payment of wages and job stability.

40. Defendants are damaged by Plaintiff's interference with their business relations; Plaintiff's actions caused Defendants' workers to quit working, which prevent Defendants from being able to service all of their customers.

41. As a direct result of Plaintiff's actions, Defendants have lost business and customers, and have been damaged in an amount in excess of \$5,000.

42. Plaintiff knew or should have known that such act was likely to result in harm to Defendants, and Plaintiff had a conscious disregard of such harm.

43. As a direct and proximate result of the Plaintiff's acts, Defendant Romell Peters was forced to perform the work of 4 people for one week until he could find replacement workers, which caused Plaintiff Romell Peters to suffer severe and permanent bodily injuries.

44. As a direct and proximate result of Plaintiff's acts, Defendant Romell Peters has been damaged in an amount in excess of \$25,000.

FOURTH COUNTERCLAIM- RENT ABATEMENT

45. Defendants hereby incorporate all prior paragraphs as if fully rewritten herein.

46. Pursuant to common law, Plaintiff owes a duty to Defendants to maintain the leased premises in a safe, fit and habitable condition, and to properly make repairs as necessary to keep the premises safe and habitable.

47. Plaintiff has failed to maintain the leased premises, and has now permitted a utility service to be shut off.

48. Defendants own and operate a carwash and detailing service.

49. Despite it being the winter months in Ohio, Plaintiff has permitted Defendants to have no heat since October 2016.

50. Defendants' gas service is a utility shared with another tenant in Unit A; therefore,

Unit A and Unit B have a joint bill, and Defendants cannot put the gas service in their own name.

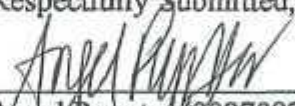
51. Plaintiff has never submitted a utility bill to Defendants for the gas services, and has now permitted the gas services to be shut off due to Plaintiff's failure to pay the gas bill.

52. For this reason, Defendants' rent should be abated until the time Plaintiff restores service of the gas utility.

53. As a direct and proximate cause of Plaintiff's actions, Defendants have been damaged in the amount of \$1,191.87 for each and every month Defendant has been without heat.

WHEREFORE, Defendants/Counterclaimants asks that this court Dismiss Plaintiff's Complaint with prejudice; award Defendants/Counterclaimant damages in an amount in excess of \$25,00.00; award damages pursuant to R.C. sections 2323.51; award reasonable attorney's fees, costs, and interest; and all other relief this Court deems just.

Respectfully Submitted,



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Counsel for Defendants/Counterclaimants

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Defendants' Answer and Counterclaims was

duly served upon Andrew Ruzicho, attorney for Plaintiff, via hand delivery, on this 3rd day of January 2017 at the Franklin County Municipal Court.



Angel Poynter (0087092)
Counsel for Defendants/Counterclaimants