IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

MICHAEL B. PATTON, MARY C. SHERIDAN, & CHAD R. STUMP, Plaintiffs, v. DAVID E. WEYL, Defendant.	)))))))))))	C.A. No.: 2003-10-526

Date Submitted: May 17, 2004
Date Decided: May 27, 2004

Mary C. Sheridan
879 Broadfield Drive
Newark, DE 19713
Pro-Se

David E. Weyl
2 Findail Drive
Newark, DE 19711
Pro-Se

FINAL ORDER AND OPINION

This is an appeal *de novo* brought pursuant to 10 Del. C. § 9570 *et seq.* Trial in the above captioned matter took place on Monday, May 17, 2004. Following the receipt of evidence and testimony, the Court reserved decision. This is the final order and decision by the Court.

The Facts

This is a landlord-tenant debt action filed by Plaintiffs seeking double damages of a security deposit pursuant to 25 *Del. C.* § 5514(f), (g). Plaintiffs leased property owned by the Defendant David E. Weyl (hereinafter "Weyl) at 184 Madison Drive, Newark, Delaware from June 1, 2001 until May 31, 2003. The parties signed a landlord-tenant

residential lease agreement on May 31, 2001 which was received into evidence.[1] Plaintiffs allege that Weyl did not send them an itemized list of damages within twenty days of the expiration of their lease and that therefore it is implied that no damages exist. Weyl contends that the Plaintiffs never provided him with a forwarding address so therefore the twenty day prohibition does not apply.

Michael Patton ("Patton") was duly sworn and testified. At trial Patton testified that he gave Weyl written notice in person on January 26, 2003 that he and the other tenants were terminating the lease as of May 31, 2003. A copy of a letter dated January 25, 2003 stating plaintiffs' termination of the lease agreement was introduced as Plaintiff's Exhibit "6." Patton testified that on May 25, 2003 he gave Weyl a copy of the tenants' forwarding addresses. (Plaintiffs' Exhibit "8"). Three copies of the addresses had been made. One was hand delivered to Weyl, another given to someone who was fixing carpet in the rental unit, and the final copy was placed in the mailbox of the rental unit. Patton testified that the tenants also gave change of address notification to the United States Post Office. On May 26, 2003, prior to the termination of the lease at the end of that month, the plaintiffs had their final walk through.

Patton testified that plaintiffs did not receive an itemized list of damages within twenty days of their lease termination. Plaintiffs sent a letter to Weyl stating they had not received a list of damages and demanded return of their $1400 security deposit. (Plaintiff's Exhibit "1"). Patton testified that after they sent their letter, Weyl responded

[1] The Court notes that the lease entered into evidence as Defendant's Exhibit "1" states the term of the lease as starting on June 1, 2001 and continuing through May 31, 2002. The Court is unclear if this was an oversight on behalf of both parties, or if another lease agreement was entered into for a second year. It can not be determined whether or not the exact provisions in this lease also govern the later part of the landlord/tenant relationship between the parties.

with an itemized list. (Plaintiffs' Exhibit "2"). Shortly thereafter, plaintiffs received another letter dated July 1, 2003 from Weyl with a revised list of damages higher than the first. (Plaintiffs' Exhibit "4"). Enclosed in the letter was a check for the remaining amount of plaintiffs' security deposit in the amount of $302.37. Patton testified that fellow Plaintiff Mary Sheridan sent Weyl a letter notifying Weyl that the accounting of the damages was unacceptable and past the twenty day time period. (Plaintiffs' Exhibit "3"). Patton further testified that Mary Sheridan sent another letter to Weyl explaining that plaintiffs had in fact given Weyl notification of lease termination. (Plaintiffs' Exhibit "7"). Sheridan returned the check for the remaining security deposit money.

On cross-examination, Patton testified that he did not have a receipt signed by Weyl to show Weyl was in fact given notice of termination or the change of address. He further testified that he was not aware of the notice provision in the lease agreement that specifies notice be sent by registered mail.

Mary Sheridan was duly sworn and testified. She stated that it was her understanding that the Landlord-Tenant code overruled any provisions in the lease so she sought to adhere to its provisions. On cross-examination, she testified that the plaintiffs hand delivered the forwarding address to Weyl. They assumed this method of delivery was acceptable since Weyl himself did have any problems with it at the time.

David Weyl was duly sworn and testified. He testified that as a landlord he requires notice by registered mail and he typically does not accept notice by hand. He introduced into evidence a copy of the rental agreement covering the term of June 1, 2001 to May 31, 2002. (Defendant's Exhibit "1"). He also introduced a copy of the Landlord-

Tenant code as Defendant's Exhibit "2" and a copy of a letter dated May 29, 2003 that he sent to plaintiffs informing them of certain items that were outstanding in regards to the rental unit. (Defendant's Exhibit "3"). Weyl testified that the letter was returned to him as undeliverable. The letter was sent to the address of the rental unit. Weyl admitted that the itemized list of damages he later sent plaintiffs was outside of the twenty day period. He stated he tried to comply with the code but was unable to do so because he did not have a forwarding address for the tenants.

Opinion and Order

The governing law of this Landlord-Tenant Code dispute is the Landlord-Tenant Code, *25 Del. C. Ch. 21, et seq*. Twenty-Five *Del. C. §5514(f)* requires a landlord to provide tenants with an itemized list of damages within twenty days after the termination or expiration of the lease. The defendant admitted that the itemized list of damages in this case was sent after twenty days. Since the notice was beyond twenty days, the question before the Court is whether a written address was, in fact, given to the landlord at or before May 31, 2003 pursuant to *25 Del. C. §5514(h)*.

It is clear to the Court that Plaintiffs have proven by a preponderance of evidence that they were not given an itemized list of damages within twenty days of expiration of their lease and that they had, in fact, provided the Defendant with their forwarding address. *Reynolds v. Reynolds*, Del. Supr., 237 A.2d 708, 711 (1967). Plaintiffs testified that Defendant was given a copy of their forwarding address by hand. At trial, the Defendant did not specifically deny he was ever given a copy at the rental unit on May 25, 2003. Defendant simply questioned whether Plaintiffs had a return receipt bearing

Defendant's signature to prove he was ever handed the address. This Court finds by a preponderance of evidence that Defendant was, in fact, given the forwarding address and therefore had actual knowledge of where notice was to be sent. Therefore, Plaintiffs have established by a preponderance of the evidence that they are entitled to double the security deposit. *25 Del. C. § 5514(g)*. See *Stoltz Management Co. v. Jill San Phillip, Del. Super., 593 A.2d 583 (1990).*

The Court therefore enters judgment in favor of Plaintiffs and against Defendant in the amount of two (2) times the security deposit of Fourteen Hundred Dollars ($1,400.00) for a total judgment of Two Thousand Eight Hundred Dollars ($2,800.00) plus post-judgment interest at the legal rate. 6 *Del. C.* §2301 *et seq.*

IT IS SO ORDERED this 27th day of May, 2004.

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JOHN K. WELCH
ASSOCIATE JUDGE

cc: Barbara C. Dooley
Civil Division Case Manager