COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

WILMINGTON, DELAWARE 19801

John K, Welch Judge

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January 25, 2013

Mr. Kenneth Stanford 63 Millwood Drive Middletown, DE 19709 Plaintiff-below Ms. Sharon Elam-Hale 182 Scottfield Drive Newark, DE 19713 Defendant-below

Re: Kenneth Stanford v. Sharon Elam-Hale

C.A. No.: CPU4-11-006765

LETTER OPINION

Dear Mr. Stanford and Ms. Elam-Hale:

This is an appeal *de novo* brought pursuant to 10 *Del. C.* § 9571. This matter was instituted by Plaintiff-below, Kenneth Stanford, in the Justice of the Peace Court to seek summary possession and compensation for back rent and damage to the rental property against Defendant-below, Sharon Elam-Hale. This Court has jurisdiction over the appeal of the debt damages only. Even though Ms. Elam-Hale never filed a formal counterclaim, she requested return of the \$1,050.00 in security deposit in the Answer. In accordance with the Delaware policy to liberally construe the pleadings of *pro se* litigants, the Court will treat Ms. Elam-Hale's request as a counter-claim for wrongful withholding of the security deposit.²

¹ See James Ciliberti v. Donald Cummings and Theresa Cummings, 2004 Del. LEXIS 55, *at 1 (Del. Com. Pl. Sept. 8, 2004).

² Sloan v. Segal, 2008 WL 81513, at *7 (Del. Ch. Jan 3, 2008) (citations omitted) (Delaware Courts look to the underlying substance of a *pro se* party's pleadings rather than rejecting them for formal defects and those filings are held to a less stringent standard than those drafted by attorneys).

Trial in the above captioned matter took place on December 17, 2012 in the Court of Common Pleas, New Castle County, State of Delaware. Following the receipt of documentary evidence³ and sworn testimony, the Court reserved decision. Ms. Elam-Hale informed the Court that her wages had been attached at the statutory designation of fifteen percent. She requested for any judgment in favor of Mr. Kenneth to be reduced by the amount already received through the garnishment. The Court ordered the parties to submit additional documents showing an accounting of the wages that have been garnished from Ms. Elam-Hale's wages in order for the Court to determine damages. The Court left the record open until December 31, 2012 for the parties to provide documentation to the Court. Neither party has submitted the requested information on the accounting of the amount of wages that have been garnished.

As advised by the Court at trial, the sole issues are: (1) whether Mr. Stanford is entitled to damages for back rent, property damage, a water bill, and late fees and (2) whether Ms. Elam-

³ Delaware Rule of Evidence 401 states that relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Plaintiff's Exb. #1 includes: (1) Section 8 Notice of Passed Inspection for 9 Kingston Rd. New Castle, Delaware, 19720, which is dated September 22, 2010; (2) Letter from Dept. of Community Services dated November 30, 2012 stating on January 1, 2011, Ms. Elam-Hale, must pay \$676.00 monthly to landlord, Mr. Stanford; (3) Letter from Dept. of Community Services stating that Ms. Elam-Hale was terminated from the Section 8 Program on May 31, 2011; (4) Water bill for 9 Kingston Road due on May 31, 2011 in the amount of \$400.54 for the total amount due; (5) Receipt for the Justice of the Peace court costs in the amount of \$40.00 for Kenneth Stanford; (6) Proposal from RK Construction for work to be performed at 9 Kingston Road in the amount of \$950.00 and dated July 27, 2011; (7) Receipt for Justice of the Peace wage attachment request in the amount of \$25.00; (8) Lease agreement between the signed on December 30, 2009, stating that a \$50.00 late fee is due to lessor if lessee does not pay the rent by the 1st of the month; (9) Letter to Ms. Elam-Hale from Mr. Stanford dated May 4, 2011 that states that Ms. Elam-Hale owes \$676.00 for May 2011 and a late fee will be applied after May 5, 2011. Additionally, the letter states that Ms. Elam-Hal owes \$30,00 for a January late fee, \$33.80 for a February late fee, \$30.00 in unpaid rent, and \$400.54 for the water bill. Certificate of mailing is attached to the letter; and (10) Letter to Ms. Elam-Hale from Mr. Stanford dated June 2, 2011 that states the total due on lease is \$2,220.34, which includes \$1,050.00 for June 2011 rent because Section 8 had been terminated. Defendant's Exb. #1 - Letter to Mr. Stanford from New Castle County Office of Code Enforcement dated July 20, 2011 granting Mr. Stanford's request for an extension to correct code violations of roofs and drainage, interior surfaces, mechanical appliances, plumbing, and infestation. The notice states that the inspection was performed on June 17, 2011. Defendant's Exb. #2 - Eviction Notice for Ms. Elam-Hale to vacate 9 Kingston Road by July 11, 2011. Defendant's Exb. #3 - A copy of the same lease agreement submitted by Plaintiff, Defendant's Exb. #4 - The same letter as Plaintiff's Exb. # 9.

Hale is entitled to an offset for the amount of her security deposit. This is the Court's Final Decision and Order entering judgment in favor of Mr. Stanford.

I. The Facts

This a landlord-tenant action filed by Mr. Stanford. Ms. Elam-Hale leased a house from Mr. Stanford beginning on December 30, 2009 located at 9 Kingston Road, New Castle, Delaware. Ms. Elam-Hale was behind on rent payments and was evicted from the property on July 14, 2011. Mr. Stanford seeks damages for unpaid rent and property damage to the house.

Mr. Stanford testified during Plaintiff's case-in-chief. Mr. Stanford stated that Ms. Elam-Hale was terminated from the assistance of the Section 8 program on May 31, 2011. As a result of this termination, Ms. Elam-Hale's rent increased from \$676.00 to \$1,050.00 for June 2011. Mr. Stanford submitted two letters, dated May 4, 2011 and June 2, 2011, informing Ms. Elam-Hale of her overdue balance. Additionally, Mr. Stanford stated that Ms. Elam-Hale never paid the amount due, and the Justice of the Peace Court awarded Mr. Stanford possession on July 14, 2011. Mr. Stanford testified that Ms. Elam-Hale still owed the following: (1) \$676.00 rent for May 2011; (2) \$63.80 for late fees incurred in January and February 2011; (3) \$950.00 for damage to the house including carpet replacement; (4) \$400.54 for a water bill; and (5) \$65.00 in Justice of the Peace court costs.

Ms. Elam-Hale then testified. Ms. Elam-Hale acknowledged that she was terminated from the Section 8 program on May 31, 2011. However, she claims that there was no agreement between the parties for rent for the month June. Ms. Elam-Hale also argues that she should not have to pay rent for June because Mr. Stanford failed inspection and failed to fix the broken oven and leaking sink. In regards to the damaged carpet, Ms. Elam-Hale claims that the locks were changed before July 14, 2011, and as a result, she did not have time to fix the damaged carpet.

Ms. Elam-Hale stated that she did not have a problem paying the rent owed, but did not agree with the money sought for the property damage because she claimed there was no damage. Ms. Elam-Hale also denies ever receiving notice of the outstanding water bill. Ms. Elam-Hale then stated that she never received notice from Mr. Stanford of the application of her \$1,050.00 security deposit. Mr. Stanford countered that he could not send such notice because Ms. Elam-Hale failed to provide a forwarding address.

II. The Law

In civil claims, the plaintiff, here Mr. Stanford, bears the burden to prove each and every element of its claim(s) by a preponderance of the evidence.⁴ The side on which the greater weight of the evidence is found is the side on which the preponderance of the evidence exists. ⁵ Ms. Elam-Hale must also prove that Mr. Kenneth wrongfully withheld her security deposit by a preponderance of the evidence.

The governing law of the instant dispute between the parties is the Delaware Landlord-Tenant Code's security deposit statute, 25 *Del. C.* § 5514 *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. 6 If a landlord fails to meet the twenty day requirement imposed by sub-section (f), then under § 5514(g), a tenant may recover double the amount of the security deposit. 7 However, the statute also provides that if the tenant fails to provide the

⁴ Reynolds v. Reynolds, 237 A.2d 708, 711 (Del. 1967).

⁵ *Id.*

⁶ Mayers v. Rice, 2001 WL 1555649, at *1 (Del. Com. Pl. Jan. 19, 2001) (citing 25 Del. C. § 5514(f)).

⁷ 25 Del. C. § 5514(g).

landlord with a forwarding address "at or prior to the termination or expiration" of the lease, then the landlord is absolved of the liability for double damages.⁸

III. <u>Discussion</u>

Based upon the record produced at trial, the Court must now determine whether Ms. Elam-Hale is liable for back rent and property damage. Ms. Elam-Hale acknowledged that she is liable for back rent in her trial testimony. Documentary and testimonial evidence support Mr. Kenneth's claim that Ms. Elam-Hale is liable for back rent for May 2011 in the amount of \$676.00, for June 2011 rent in the amount of \$1,050.00, and \$400.54 for the water bill.

Ms. Elam-Hale's testimony regarding the damage to the home was conflicting. First, Ms. Elam-Hale claimed that she did not have enough time to fix the damaged carpets because the locks were changed prior to July 14, 2011. Then, she contradicted herself by claiming there was no property damage. The Court finds that Mr. Stanford's testimony and documentation of the damage was more credible. Therefore, the Court finds beyond a preponderance of evidence that Ms. Elam-Hale is liable for property damage in the amount of \$650.00. The Court finds that Mr. Kenneth has proven by a preponderance of the evidence that Ms. Elam-Hale is liable for back rent and property damage under the lease agreement in the amount of \$2,776.54.

Based upon the record produced at trial, the Court finds that Ms. Elam-Hale has proven by a preponderance of evidence that Mr. Broadwater failed to produce an itemized list of damages within twenty days of the termination of the lease on July 14, 2011. Mr. Stanford did not refute Ms. Elam-Hale's testimony or provide any documentation of notice of application of the security deposit.

⁸ Patton v. Weil, 2004 WL 1177217, at *2 (Del. Com. Pl. May 27, 2004) (citing 25 Del. C. § 5514(h)).

Ms. Elam-Hale, however, failed to provide a forwarding address prior to July 14, 2011 as

required by 25 Del. C. § 5514(h). Due to this failure, Ms. Elam-Hale is not entitled to double the

security deposit. She may only recover the amount of the security deposit, \$1,050.00. However,

since the amount of Mr. Kenneth's judgment exceeds the amount of the \$1,050.00 security

deposit, the amounts offset.

Therefore, the Court enters judgment in favor of the Plaintiff in the amount of \$1,726.54

plus post-judgment interest under 6 Del. C. § 2301 et seq and costs. The Court grants the parties

ten days to submit documentation regarding the accounting of the wages garnished.

IT IS SO ORDERED this 25th day of January 2013.

John K. Welch, Judge

/jb

cc: Ms. Tamu White

Civil Manager