



STATE OF DELAWARE  
**JUSTICE OF THE PEACE COURT NO. 13**  
1010 CONCORD AVENUE  
CONCORD PROFESSIONAL CENTER  
WILMINGTON, DELAWARE 19802

TELEPHONE: (302) 577-2550

**SYSTEM ID: @2657641**  
**TIA GIANAKIS-MINELLA**  
**744 HERTFORD ROAD**  
**WILMINGTON DE 19803**

**VS.**

**Civil Action No: JP13-14-006277**

**SYSTEM ID: @2678693**  
**JOHN JOHNSON**  
**3030 W COURT STREET**  
**CLAYMONT, DE 19703**

**DEFENDANT**

**SYSTEM ID: @2678694**  
**STEPHANIE JOHNSON**  
**3030 W COURT STREET**  
**CLAYMONT, DE 19703**

**ORDER OF JUDGMENT**  
**ON TRIAL DE NOVO**

Trial de novo heard August 27, 2014. Plaintiff Tia Gianakis-Minella failed to appear. Defendants John Johnson and Stephanie Johnson appeared, represented by Jillian M. Pratt, Esq. The trial de novo panel is comprised of Judge Bonita N. Lee, Judge Kathy S. Gravel and Judge Katharine B. Ross.

Plaintiff's claim for rent and possession is dismissed for failure to prosecute. Trial proceeded on Defendant's counterclaim for 100% rent abatement due to lack of essential services (electricity), from May 1, 2014 through June 24, 2014 totaling \$1,987.10. Defendants also seek rent abatement in the amount of two-thirds monthly rent, due to the condition of the third bedroom that rendered it unusable, in the total amount of \$4,400.00.

In support of the counterclaim, Defendants presented the following documentary evidence: Department of Land Use Violation notice dated January 16, 2014; New Castle County, Code Enforcement Civil Penalty notice issued January 28, 2014; Department of Land Use Violation notice dated May 29, 2014. In addition to the documentary evidence, the Court heard testimony from Francis F. Walsh, New Castle County Code Enforcement officer and John Johnson III.

Defendant J. Johnson testified that he moved in the rental premises at 3030 West Court in Claymont, Delaware on February 15, 2014. At the time of move-in there were problems noted with the premises, such as debris, missing appliances, burn holes in carpet and falling ceiling in what was to


be the daughter's bedroom. When the problems were brought to Plaintiff's attention, Plaintiff made a promise to fix the problems, but failed to do so. According to the Defendant's testimony, some time near the end of April Plaintiff demanded \$200.000 for the electric bill. On or about May 1, the electrical service to the premises was turned off. Defendant made numerous phone calls to Plaintiff, but did not receive a response from her. In mid-May the premises was declared "unfit "by New Castle County Code Enforcement, so the family moved in with Defendant's mother. The electrical service was not restored until June 24, 2014, after the first court hearing. Defendant testified that he did not receive a copy of the Landlord-Tenant Code.

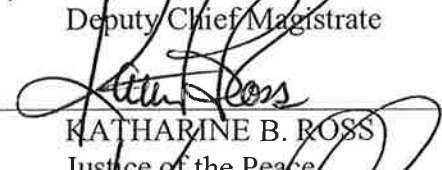
Witness F. Walsh, New Castle County Code Enforcement officer testified that he inspected the exterior of the 3030 West Court on January 15, 2014 and issued a violation for exterior debris and outside storage of household items. The violation notice described a damaged dresser on the outside of the premises and multiple plastic trash bags in the rear yard that were not properly stored. The violation notice was sent to Tia Gianakis-Minella at 744 Hertford Road in Wilmington, DE. An inspection of the interior of the premises was conducted May 27, 2014, after the NCC Code Enforcement office received a telephone call that the tenants were using a generator. Officer Walsh contacted Delmarva Power to verify that there was no electricity in the premises. Officer Walsh testified that the heater and water heater had not been inspected and a number of electrical plates were missing. According to the violation notice, Plaintiff was also cited for stains in bedroom ceiling with detaching drywall tape, peeling bathroom flooring and improper exhaust for the clothes dryer. On the day of the interior inspection, the premises were placarded as "Unfit for Human Habitation" due to lack of electricity. Officer Walsh conducted a re-inspection on August 26, 2014, and found many of the same conditions.

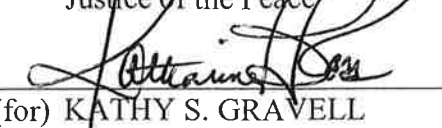
25 Del. C. §5308 provides that a tenant may withhold/keep two-thirds per diem rent accruing during the period the tenant is without electricity. The uncontested testimony presented by the defense witnesses supports a claim of two-thirds rent abatement per diem for the 54 days the Defendants were without electricity. However, the Court does not believe the testimony supports a claim of two-thirds per diem rent abatement for the condition of the bedroom. The testimony was not sufficient and the Court declines to speculate as to an amount of rent abatement for what was described in the violation notice as a stained ceiling with detaching drywall tape. However, since Plaintiff failed to appear to prosecute a claim for unpaid rent, the Court is dismissing the claim for unpaid rent through today. Accordingly, no additional abatement is awarded.

On the counterclaim, judgment is entered in favor of Defendants John Johnson and Cleo Johnson and against Plaintiff Tia Gianakis-Minella in the amount of \$1,320.12. Plaintiff's claim for unpaid rent and possession is dismissed.

IT IS SO ORDERED this 04th day of September, 2014

  
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BONITA N. LEE (SEAL)  
Deputy Chief Magistrate

  
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KATHARINE B. ROSS (SEAL)  
Justice of the Peace

  
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(for) KATHY S. GRAVELL (SEAL)  
Justice of the Peace