

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION - SMALL CLAIMS
FILE NO. 24-CV-022933-910

CHARITY MAINVILLE,)
)
Plaintiff,)
)
vs.)
)
ANNA DE SANTIS and)
DE SANTIS RENTALS, LLC,)
)
Defendant.)
)
)

AMENDMENT TO
COMPLAINT FOR MONEY OWED

NOW COMES the Plaintiff, Charity Mainville, appearing pro se, and for her Amended Complaint against the Defendants Anna De Santis and De Santis Rentals, LLC (collectively referred to as “Defendant”), alleges and states as follows:

FIRST CLAIM FOR RELIEF: BREACH OF CONTRACT THROUGH VIOLATION OF IMPLIED
WARRANTY OF HABITABILITY AND COVENANT OF QUIET ENJOYMENT

1. Plaintiff moved into the Rental Property at 4304 Presley Court, Unit A, on May 4th, 2024.
2. The agreed-upon rent for the Rental Property is \$1700 per month.
3. Defendant has failed to comply with their obligations under the lease agreement and North Carolina General Statutes § 42-42 in the following ways:
 - a. Failure to make necessary repairs to maintain the Rental Property in a safe, fit, and habitable condition;
 - b. Failure to maintain common areas in a safe condition;
 - c. Failure to keep the Rental Property in compliance with local housing codes;
 - d. Failure to not promptly repaired all electrical, plumbing, sanitary, heating, ventilating, air-conditioning or other facilities and appliances that were supplied or required to be supplied.
4. Defendant knew or should have known that the Rental Property needed repairs because:
 - a. The Rental Property should have been in compliance with local housing codes before Plaintiff’s occupancy;
 - b. Plaintiff provided written notice to Defendant about needed repairs.
5. Defendant breached the covenant of quiet enjoyment by:
 - a. Allowing unauthorized occupants in neighboring units, creating safety concerns and consistent noise;
 - b. Failing to use appropriate professionals for repairs and not addressing issues prior to move-in, causing multiple disturbances.

6. These breaches have exacerbated Plaintiff's documented mental health conditions (Generalized Anxiety Disorder and Complex PTSD) and posed risks to Plaintiff's physical health and that of Plaintiff's service dogs.
7. Despite being informed of Plaintiff's specific health needs and the adverse effects of these issues, Defendant has consistently failed to take appropriate action and provide reasonable accommodations.
8. Defendant has further breached their duties under North Carolina law by failing to mitigate damages:
 - a. After receiving Plaintiff's 60 day notice of intent to vacate on July 8, 2024, Defendant failed to make reasonable efforts to re-rent the property.
 - b. Defendant did not list or advertise the property for rent despite having ample notice of Plaintiff's intent to terminate the lease due to habitability issues.
 - c. Defendant demanded that Plaintiff pay \$5,100, equivalent to three months' rent, to "buy out the lease," without demonstrating any efforts to find a new tenant. This demand is contrary to the landlord's legal duty to mitigate damages and is unreasonable given the circumstances of Plaintiff's need to vacate due to habitability issues.

WHEREFORE, Plaintiff prays for relief as follows:

- d. A refund of rent equal to the difference between the fair market value of the Rental Property in good condition and its actual condition for each month rent was paid.
- e. Damages for out-of-pocket expenses incurred due to Defendant's failure to comply with the law.

RELIEF SOUGHT

Plaintiff seeks the following relief:

- a. Rent Abatement: \$1,340
Justification: This amount represents the difference between Plaintiff's monthly rent of \$1,700 and the neighborhood average of \$1,365 for similar properties, prorated for May, June, July, and August of Plaintiff's tenancy. This refund is sought due to the reduced value of the property caused by the habitability issues and misrepresentations.
- b. Fence Installation Reimbursement: \$198
Justification: This amount represents reimbursement for a property improvement made under the expectation of long-term tenancy. Plaintiff would not have incurred this expense had the true nature of the property's conditions been disclosed. Due to multiple issues with lawn maintenance and lack of promised privacy, the backyard is not usable as represented.
- c. Moving Costs: \$550
Justification: This amount represents expenses incurred due to necessary early move-out caused by habitability issues. While moving costs are typically expected, Plaintiff had recently moved cross-country and was not prepared for this additional expense so soon, which was necessitated by Defendant's breaches.

- d. Lost Work Hours: \$1,500 (25 hours at \$60/hour)

Justification: This amount represents time spent dealing with property issues, filing complaints, conducting necessary research, and searching for new housing due to uninhabitable conditions. Plaintiff is a contract/gig worker who works from home, a fact known to Defendant. Time spent addressing these issues and disturbances during meetings directly impacts Plaintiff's financial health.

- e. Court Filing & Summons Fee: \$156

Justification: This amount represents the actual costs incurred by Plaintiff to file this action, which is commonly reimbursed in small claims court when found in favor of the plaintiff.

TOTAL RELIEF SOUGHT: \$3,744

Plaintiff also seeks:

- f. Immediate termination of the lease without financial penalty, based on both the breach of the implied warranty of habitability and covenant of quiet enjoyment (as stated in the First Claim for Relief) and the unenforceability of the contract due to unfair and deceptive practices (as stated in the Second Claim for Relief).
- g. The ability to remain in the Rental Property for up to 14 days after judgment, paying a prorated rent at the average market value of \$1,365 per month for this period, should Plaintiff still be residing there at the time of judgment. Any unused portion of this 14-day period will be refunded to Plaintiff if they vacate earlier. This limited timeframe demonstrates Plaintiff's commitment to vacating the premises promptly while accounting for the challenges of securing new housing due to the unexpected nature of this move, caused by Defendant's breaches. This request is based on the ongoing habitability issues and the need for reasonable accommodation due to Plaintiff's documented health conditions.
- h. An order requiring Defendant, Anna De Santis, to be present at the time of Plaintiff's move-out to conduct a joint inspection of the premises. Both parties shall sign an inspection form documenting the condition of the property at the time of move-out. Defendant shall provide Plaintiff with a copy of this signed form within 24 hours of the inspection. This request is made due to Defendant's pattern of misrepresentation and to ensure a fair process for the return of Plaintiff's security deposit.

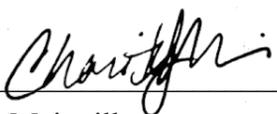
SECOND CLAIM FOR RELIEF: UNFAIR OR DECEPTIVE ACTS OR PRACTICES

9. Defendant has been in the business of renting homes to one or more consumers in Wake County, North Carolina.
10. It is well-established law that renting a dwelling for residential use constitutes "commerce" for purposes of the consumer protection law against unfair and deceptive trade practices. N.C. Gen. Stat. §75-1.1; *Love v. Pressley*, 34 N.C.App. 503, 239 S.E.2d 574, 583 (1977).
11. In the context of landlord-tenant law, landlords have been held liable under §75-1.1 for not providing facilities and amenities which they have promised to tenants. *Marshall v. Miller*, 302 N.C. 539, 548, 276 S.E.2d 397, 403 (1981).

12. Moreover, when a landlord fails to maintain a rented residence in a fit and habitable condition but continues to collect rent from their tenant, they engage in an unfair and deceptive trade practice. *Creekside Apartments v. Poteat*, 116 N.C.App. 26, 36-37, 446 S.E.2d 826, 833 (1994)
13. Plaintiff alleges that Defendant engaged in unfair and deceptive trade practices in violation of N.C. Gen. Stat. §75-1.1 by:
 - a. Misrepresenting the privacy and conditions of the Rental Property.
 - b. Failing to disclose material information about neighboring tenants and property conditions when specifically asked
 - c. Continuing to collect rent while failing to maintain the Rental Property in a fit and habitable condition.
14. Plaintiff relied on Defendant's representations when deciding to rent the property, as Plaintiff was unable to view the property in person before renting.
15. Defendant has continued to make misleading statements and engaged in intentional fraud, which has been supported by Defendant's legal counsel. This is evidenced by statements made in Defendant's motion to dismiss, where Defendant's attorney claimed: *"Plaintiff makes no allegations either in the Complaint or to the Defendant directly that her property has been rendered uninhabitable. This claim against the Defendant should be dismissed as a matter of law."*
 - a. This statement is factually incorrect and appears to be an attempt to mislead the Court. Plaintiff has made specific allegations regarding the habitability of the property, including issues that render it uninhabitable, both to Defendant directly and Defendant's attorney.
 - b. Defendant's ongoing misrepresentations, including those made through legal counsel, constitute a continuation of the unfair and deceptive trade practices alleged in this Complaint.
16. Due to Defendant's unfair and deceptive acts, including material misrepresentations about the property's condition and privacy, Plaintiff contends that the lease agreement is voidable. These misrepresentations induced Plaintiff to enter into a contract she would not have otherwise agreed to had she known the true conditions of the property and surrounding circumstances.

WHEREFORE, Plaintiff prays for the following relief:

- a. Treble damages as provided under the North Carolina Unfair and Deceptive Trade Practices Act (UDTPA), within the jurisdictional limit of \$10,000, based on the actual damages listed in the First Claim for Relief
- b. Any other relief the Court deems just and proper.

By: 
Charity Mainville
Plaintiff, Pro Se