
ONEIDA JUDICIARY-TRIAL COURT

**EDDY-JOE SKENANDORE
BRITTANY SKENANDORE**

Petitioners,

vs.

BIRCHWOOD APARTMENTS,

Respondent,

Case No: **15-TC-031**

FINAL DECISION AND ORDER

This case has come before the Oneida Trial Court, Honorable John E. Powless III presiding.

BACKGROUND

The Court received a Petition for a Small Claims lawsuit by Petitioners Eddy-Joe and Brittany (Liegeois) Skenandore. The Petitioners dispute the cleaning cost per hour, cleaning supplies, and materials such as drip pans assessed to the Petitioners. The Small Claims hearing was held on Monday, August 3, 2015.

ANALYSIS

Petitioners dispute of Security Deposit:

In this case, the Petitioners dispute the cost for cleaning as identified in Birchwood Apartments Addendum to Apartment Lease Non-Standard Rental Provision. Pursuant to OCL 150.2-6, where precedent for a particular matter has not been established, the court may refer to established Wisconsin or Federal case law precedent or laws for guidance. In this case, the court looked to Wis. Stat. §704.28 for guidance. Wis. Stat. §704.28 states that ...

704.28 WITHHOLDING FROM A RETURN OF SECURITY DEPOSITS.

(1) STANDARD WITHHOLDING PROVISIONS. When a landlord returns a security deposit to a tenant after the tenant vacates the premises, the landlord may withhold from the full amount of the security deposit only amounts reasonably necessary to pay for any of the following:

- (a) Except as provided in sub. (3), tenant damage, waste, or neglect of the premises.
- (b) Unpaid rent for which the tenant is legally responsible, subject to s. 704.29.
- (c) Payment that the tenant owes under the rental agreement for utility service provided by the landlord but not included in the rent.
- (d) Payment that the tenant owes for direct utility service provided by a government – owned utility, to the extent that the landlord becomes liable for the tenant’s nonpayment.
- (e) Unpaid monthly municipal permit fees assessed against the tenant by a local unit of government under s. 66.0435 (3), to the extent that the landlord becomes liable for the tenant’s nonpayment
- (f) Any other payment for a reason provided in a nonstandard rental provision document described in sub. (2).

(2) NONSTANDARD RENTAL PROVISIONS. Except as provided in sub. (3), a rental agreement may include one or more nonstandard rental provisions that authorize the landlord to withhold amounts from the tenant’s security deposit for reasons not specified in sub. (1) (a) to (e).

Wis. Stat. §704.28 (f) identifies that the landlord may withhold from the full amount of the security deposit if there are any payments for reasons outlined in a non-standard rental provision. One of the documents the Respondent submitted, and was accepted as an exhibit is Birchwood Apartments Addendum to Apartment Lease Non-Standard Rental Provisions. A cleaning and painting provision is addressed in the Addendum to Apartment Lease.

ADDENDUM TO APARTMENT LEASE NON-STANDARD RENTAL PROVISION

8. CLEANING/PAINTING.

In the event the apartment is not clean, and its condition is due to negligence or improper use by the Tenant, Tenant agrees to be responsible for the cost of cleaning necessary because of such negligence or improper use. The cost of cleaning shall be \$25 per hour. Upon vacating, Tenant agrees to complete a Move-Out Inspection which requires Landlord’s final approval of the cleanliness of premises, and the Tenant’s signature, forwarding address and new telephone number.

Tenant may be liable for any additional cleaning or painting of the apartment, should a yellow or black soot-like substance appear due to burning of candles, oil lamps, cigars or cigarettes, as such occurrences are beyond normal wear and tear.

In this case, the Petitioners dispute the cleaning cost per hour, cleaning supplies, and materials such as drip pans assessed to Petitioners.

The cleaning cost of \$25.00 per hour was clearly identified in the Non-Standard Rental Provisions. Under Cleaning/Painting in the Addendum to Apartment Lease, Non-Standard Rental Provisions, tenants Eddy-Joe Skenandore and Brittany (Liegeois) Skenandore initialed and signed the Non-Standard Rental Provision, agreeing to all provisions outlined in the document. Petitioner Eddy-Joe Skenandore further signed the Move-Out Inspection, agreeing to the results of the inspection. The Petitioners are bound by the terms of the Non-Standard Rental Provisions unless the terms are unconscionable. In this case, the \$25.00 per hour cleaning charges is reasonable.

FINDINGS

1. The Court has jurisdiction pursuant to Chapter 150 of the Oneida Code of Laws.
2. Notice was given to all those entitled to notice.
3. Petitioners Eddy-Joe Skenandore Brittany (Liegeois) Skenandore leased from Birchwood Apartments from October 1, 2014 to May 31, 2015. The Petitioners vacated the apartment on May 29, 2015.
4. The Court accepts the following items identified in Exhibit #1: Addendum to Apartment Lease Non-Standard Rental Provisions, Check-In Report, Move-Out Inspection, and Cleaning list.
5. By initialing and signing the Addendum to Apartment Lease Nonstandard Rental Provisions, the Petitioners agreed to terms that if cleanliness of the apartment does not meet the approval of Birchwood Apartments, a \$25 per hour cleaning charge would be assessed to the tenants.
6. Petitioner Eddy-Joe Skenandore accepted the inspection results of Birchwood Apartments by signing the Move-Out Inspection dated May 28, 2015.

DECISION

The Court rules in part for the Petitioners. The Move-Out Inspection identifies (X) indicates repair or cleaning is needed, and to further provide explanation of damage or cleaning. The Move-Out Inspection vaguely identifies the outside of the stove, burner reflectors, and oven/broiler as dirty. Resident Manager Nielsen did not explain or identify any damage to the drip pans other than that the drip pans were dirty. Therefore the drip pans could have been cleaned, as opposed to purchasing new drip pans. The Petitioners are awarded \$13.00 for overcharge of drip pans. All other claims for cleaning costs, cleaning supplies and materials are denied.

IT IS SO ORDERED.

By the authority vested in the Oneida Trial Court pursuant to Resolution 01-07-13-B of the General Tribal Council a hearing was held on August 3, 2015 and an order signed on August 12, 2015 in the matter of *Eddy-Joe and Brittany Skenandore vs. Birchwood Apartments*. Case #15-TC-031.