

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

JOHN W. GILLESPIE, )  
)  
Plaintiff, )  
)  
v. ) C.A. No.: 2006-11-410  
)  
CHELSEA ON THE SQUARE )  
APARTMENTS, )  
)  
Defendant. )

**Submitted:** August 4, 2008  
**Decided:** September 4, 2008

John W. Gillespie  
3702 Winterhaven Drive  
Newark, Delaware 19702

Joseph J. Bellew, Esquire  
Chase Manhattan Centre  
1201 North Market Street, Suite 1400  
Wilmington, DE 19801

**DECISION AFTER TRIAL**

Plaintiff John W. Gillespie (hereinafter “Gillespie”) brings this action alleging retaliation by his residential landlord, defendant Chelsea on the Square Apartments (hereinafter “Chelsea”) for violation of the *Landlord Tenant Code*, 25 *Del.C.* § 5516. Gillespie asserts he is in lawful possession of the rental property by order of the court entitled to all of the rights, obligations and privileges thereof. Notwithstanding, the day immediately following the Justice of the Peace Court’s decision in this matter Chelsea sent Gillespie a letter stating he was a holdover tenant, refusing to accept his rental payments. Chelsea contends these actions cannot support a claim for retaliation because Chelsea continued to accept and deposit Gillespie’s money orders.

## FACTS

The relevant facts indicate Gillespie has resided in his apartment at 3207 Winterhaven Drive, Newark, Delaware since September 1996. When Chelsea became the owner of the complex in 2002, the parties did not execute a written lease agreement, thus Gillespie became a month-to-month tenant under the Landlord-Tenant Code. On October 15, 2002, Gillespie filed suit against Chelsea alleging illegal home invasion and personal property destruction. On March 31, 2005, Gillespie filed a second action against Chelsea for failure to provide heat. Both suits were pending when, on July 30, 2005, Chelsea sent Gillespie written notice increasing his rent from \$605 to \$780 per month, effective October 1, 2005. Both suits were still pending when, on or about January 6, 2006, Chelsea filed a summary possession action in the Justice of the Peace Court. In that action, Gillespie brought a compulsory counterclaim alleging the summary possession action as a retaliatory act, as defined under the Landlord-Tenant Code.

According to Gillespie's initial Complaint in this matter, he made a rent payment to Chelsea on October 1, 2006 in the amount of \$780. Gillespie testified that following trial on October 4, 2006 in the Justice of the Peace Court, judgment was entered for Gillespie against Chelsea in the amount of \$2,340.00. The Court also held that Chelsea violated *25 Del. C. § 5516(b)(4)* by attempting to terminate the lease agreement while Gillespie was pursuing a legal right arising from the tenancy. The Court further states "as a matter of law, the Court finds for Defendant on possession."

Gillespie testified that on October 5, 2006, one day after the Justice of the Peace Court Order was issued, he received a letter from Valerie Morroni, General Manager for Chelsea on the Square. The letter stated: "We are in receipt of two money orders made

out to Chelsea on the Square in the amounts of \$280.00 and \$506.00 respectively, signed by you for the October rental. As you are aware, your month-to-month rental agreement with Chelsea was non-renewed effective December 31, 2005 . . .” (Plaintiff’s Ex. #2) Thereafter, a series of written communications ensued between the parties wherein Chelsea eventually agreed to cash Gillespie’s payments for rent, but continued to characterize him as a holdover tenant. Gillespie testified he presently remains in possession of the rental property, but feels that, because of Chelsea’s refusal to comply with the JP Court order, he is living with the constant threat of eviction.

Chelsea, through its counsel, stated that the October 5, 2006 letter was sent to Gillespie to prevent him from misconstruing the landlord’s acceptance of rental payments as a renewal of the lease. Chelsea filed an appeal of the Justice of the Peace Court to the three-Judge Panel. Although it has continued to accept all of Gillespie’s payments and has not sought to evict him, Chelsea’s management maintained its position that Gillespie is a holdover tenant. Chelsea also maintains that the communications between the parties, particularly the October 5, 2006 letter, were routine and necessary and cannot be considered retaliatory under the provisions of 25 *Del.C.* § 5516.

### **DISCUSSION**

The provisions of 25 *Del.C.* § 5516, provide: “A retaliatory act is an attempt on the part of the landlord to: pursue an action for summary possession or otherwise cause the tenant to quit the rental unit involuntarily; demand an increase in rent from the tenant; or decrease services to which the tenant is entitled after. . (4) the tenant has pursued or is pursuing any legal right or remedy arising from the tenancy.” 25 *Del.C.* § 5516(b)(4).

The retaliation claim brought by Gillespie against Chelsea in this matter is based upon Chelsea's alleged refusal to comply with the Justice of the Peace Court's Order of October 4, 2006. Gillespie points to the letter of October 5, 2006 from Chelsea which states he is a hold-over tenant and Chelsea continues to refuse to accept any rental payments. Chelsea contends that it has not committed a retaliatory act as defined by the statute, and did not intend to subvert the decision of the JP Court. Rather, Chelsea avers that it was reaffirming its position that Gillespie was a holdover tenant and intended to challenge the Order through the appeal process. Chelsea also states the October 5, 2006 letter was written in the context of litigation. Chelsea's attorney further stated on the record his client understands that an Order issued by a Court with jurisdiction stands as a matter of law until it is modified or altered by a court of review. Chelsea also relies upon *Baker v. Huang*, Del. Supr., 610 A.2d 1341 (1992) to support its position that its actions are reasonable under the facts. However, after review of this case, I find that it has no application to these proceedings.

“[R]espect for the Court is the duty of every officer of the Court. Respect for the Court and its orders is not conveyed in words, but also by action. Disregard of a lawful court order does not demonstrate respect for the Court, no matter how important the stake of a party subject to the order. As stated in another proceeding, “it cannot be tolerated, lest this Court be made less than a Court.” *State v. McMaster*, 2006 WL 2724073, \*3 (Del.Com.Pl.) citing *Order on Motion*, JP No. 0511003313, April 19, 2006 (Davis, Magistrate). When active court orders are blatantly and intentionally disregarded, there is serious question of how matters may orderly proceed.

It is extremely troubling to this Court that defendants took actions which contradict the Justice of the Peace Court Order of October 4, 2006. The correspondence between the parties clearly illustrates Chelsea gave little regard for the Court's Order, especially since the Court had specifically held, "s a matter of law, the Court finds for the Defendant on possession." Although Chelsea contends that it wanted to preserve its arguments for appeal, there is no mention of an appeal in any of its letters to Gillespie. Further disturbing, is the fact that Chelsea's October 5, 2006 letter which rejected Gillespie's rent was submitted one day following the Court's decision finding Gillespie was rightfully in possession. Chelsea's actions suggest it would not acknowledge the Justice of the Peace Court's Order, and intended to proceed in blatant disregard thereof. I fail to see how this could not be retaliatory with the express purpose to have the tenant quit the rental. In fact, I cannot envision any set of facts which would come more squarely within the retaliatory prohibition.

For the foregoing reasons, I am satisfied that Chelsea's actions in the letter, and those thereafter violated the latter and policy *25 Del. C. § 5516*. As such, Plaintiff is entitled to recover damages of three (3) months rent, which is \$2,340.00, cost of these proceedings, and post-judgment interest hereof at 8% until paid. Gillespie seeks punitive damages. However, while I find the action of Chelsea violates the statute and very troubling, I do not find there is a basis for punitive damages.

Chelsea's counterclaim was withdrawn at trial, therefore, that issue is no longer before the Court and need not be considered.

**IT IS SO ORDERED**

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**Alex J. Smalls**  
CHIEF JUDGE

Gillespie-DECISION 08