

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

SUI K. WONG,)	No. 65808-5-1
)	
Appellant,)	DIVISION ONE
v.)	
)	
ANA L. MARTINEZ and)	UNPUBLISHED OPINION
JOSE LUIS PANTIGA FLORES,)	
)	
Respondents.)	FILED: September 19, 2011

Schindler, J. — Sui Wong filed a lawsuit for breach of a rental agreement against her former tenants Ana Martinez and Jose Flores (Martinez). Because Wong’s claims are barred by the doctrine of res judicata we affirm summary judgment dismissal of her lawsuit against Martinez.

In September 2003, Martinez signed a month-to-month rental agreement to rent a house from Wong and paid \$1,500 as a security deposit. In May 2005, Martinez gave Wong notice that they were purchasing a house and planned to move out of the rental house on July 1. Because the closing on the purchase of the house was delayed, Wong agreed that Martinez could stay in the rental house for the first two weeks of July and pay a daily rental rate. Martinez moved out sometime in early July.

On July 21, Wong wrote a letter to Martinez asking for payment of rent for the second week of July and stating that she would deduct the cost of replacing the

mailbox from the security deposit because all of the keys were not returned. On July 25, Wong sent another letter to Martinez stating that she would not return the security deposit. In the letter, Wong claimed that over \$2,000 in repairs were necessary to restore the house to its original condition, including installing a new garage door opener, painting, carpet cleaning, and repairing appliances. A few days later, Wong sent Martinez a third letter demanding that Martinez pay an additional \$895 for repairs.

On August 2, Martinez filed a complaint in small claims court to recover the security deposit. Wong filed a counterclaim for \$1,100 for “rent and damage repairs.” Martinez denied responsibility for the repairs. Martinez and Wong testified at the trial and presented evidence.¹ Martinez submitted the rental agreement and the letters from Wong demanding money for repairs to the house. Wong submitted photographs of the house and numerous receipts for repairs, including carpet cleaning, house cleaning, painting, repairs to appliances, and replacement of the garage door opener. The court ruled in favor of Martinez and entered a judgment against Wong for \$1,500 plus \$21 for the filing fee.

Wong appealed to superior court. In her notice of appeal, Wong stated that Martinez owed rent and utilities, the satellite dish Martinez installed on the side of the house had rusty nails and damaged the siding, and Martinez was responsible for repairs to damaged appliances. Wong filed a brief arguing that in addition to unpaid rent and the cost of repairs to the house, damage to the siding caused by the satellite dish would cost \$7,390 to \$18,937 to repair.

¹ The trial transcript was not designated on appeal. The court continued the hearing in order to provide Wong with a Cantonese interpreter.

The superior court reviewed the record of the small claims court trial and affirmed the decision of the court.² However, the court reduced the amount of the award to \$1,371, ruling that Martinez owed \$150 in unpaid rent.

On July 11, 2008, Wong filed a lawsuit against Martinez in superior court alleging breach of the rental agreement and seeking damages of \$7,390 to \$18,937 to the siding as a result of the satellite dish installation. Martinez filed an answer, asserting that Wong's claim was barred under the doctrine of res judicata and collateral estoppel. Martinez also asserted that Wong's claim was frivolous and requested attorney fees and sanctions.

On May 7, 2010, Martinez filed a motion for summary judgment dismissal of Wong's lawsuit. Martinez argued that because the claim of breach of the rental agreement and related damages was litigated in small claims court, res judicata and collateral estoppel barred Wong's lawsuit. Martinez asserted that a hearing was conducted in both small claims court and on appeal in superior court and Wong was permitted to testify and present evidence in both courts.³

The court granted the motion for summary judgment and dismissed Wong's lawsuit. As authorized by the attorney fee provision of the rental agreement, the court entered a judgment against Wong for attorney fees in the amount of \$4,410.

On appeal, Wong argues the court erred in dismissing her 2008 lawsuit on summary judgment. Wong asserts that her claim for damages related to the satellite dish was not litigated in the 2005 lawsuit in small claims court. Wong contends that the

² The court decided the motion for summary judgment without oral argument.

³ Wong's response is not designated as part of the record on appeal.

2005 lawsuit case involved the security deposit but the 2008 lawsuit is only related to damage caused by the satellite dish. Wong also asserts that Martinez is not entitled to attorney fees because Martinez made a false statement in her declaration in support of the summary judgment motion and because the court found that she owed unpaid rent in the small claims case, showing that Martinez breached the rental agreement.

We review the decision to grant summary judgment de novo. Degel v. Majestic Mobile Manor, Inc., 129 Wn.2d 43, 48, 914 P.2d 728 (1996). Whether res judicata bars a party from pursuing an action is also a matter of law reviewed de novo. Kuhlman v. Thomas, 78 Wn. App. 115, 119-20, 897 P.2d 365 (1995). Res judicata prevents relitigation of the same claim where a subsequent claim involves the same (1) subject matter, (2) cause of action, (3) persons and parties, and (4) quality of persons for or against the claim made. In re Estate of Black, 153 Wn.2d 152, 170, 102 P.3d 796 (2004). Under the doctrine of res judicata, no party may re-litigate “claims and issues that were litigated, or might have been litigated, in a prior action.” Pederson v. Potter, 103 Wn. App. 62, 69, 11 P.3d 833 (2000). The res judicata doctrine is designed to discourage piecemeal litigation. Spokane County v. Miotke, 158 Wn. App. 62, 69, 240 P.3d 811 (2010). The doctrine “puts an end to strife, produces certainty as to individual rights, and gives dignity and respect to judicial proceedings.” Marino Prop. Co. v. Port Comm'rs of the Port of Seattle, 97 Wn.2d 307, 312, 644 P.2d 1181 (1982) (quoting Walsh v. Wolff, 32 Wn.2d 285, 287, 201 P.2d 215 (1949)). “[T]he res judicata test is a conjunctive one requiring satisfaction of all four elements.” Hisle v. Todd Pac. Shipyards Corp., 151 Wn.2d 853, 866, 93 P.3d 108 (2004).

For purposes of res judicata, causes of action are identical if (1) prosecution of the later action would impair the rights established in the earlier action, (2) the evidence in both actions is substantially the same, (3) infringement of the same right is alleged in both actions, and (4) the actions arise out of the same nucleus of facts. Yakima County v. Yakima County Law Enforcement Officers Guild, 157 Wn. App. 304, 328, 237 P.3d 316 (2010).

Wong asserts that the current claim for damages under the rental agreement is not the same as her counterclaim in small claims court for damages under the rental agreement. The record does not support Wong's assertion that her current claim for breach of the rental agreement was not litigated in the small claims court action. In her counterclaim in small claims court, Wong alleged that Martinez breached the lease and was responsible for damage to the rental house. Wong testified and submitted evidence of the damage to the house. The court rejected Wong's counterclaim and awarded Martinez the security deposit. Wong appealed the decision to superior court. Wong argued on appeal that Martinez damaged the house by installing a satellite dish. The court affirmed the lower ruling. In the 2008 lawsuit Wong filed against Martinez, she alleges that Martinez breached the rental agreement and damaged the house by installing a satellite dish. Because res judicata bars the lawsuit, we affirm summary judgment and dismissal.

Wong also asserts that the court erred in awarding attorney fees because in the 2005 lawsuit, the superior court held that Martinez owed rent and reduced the judgment against Wong. We review de novo a party's entitlement to attorney fees as an issue of

law. Blair v. Wash. State Univ., 108 Wn.2d 558, 571, 740 P.2d 1379 (1987). A court may award attorney fees where authorized by a contract, statute, or recognized ground of equity permitting fee recovery. Int'l Raceway, Inc. v. JDFJ Corp., 97 Wn. App. 1, 7-8, 970 P.2d 343 (1999). The rental agreement provides that attorney fees are to be awarded to the prevailing party in an action for breach of the agreement or damage to the property. Because Wong's lawsuit against Martinez for breach of the rental agreement and damages was dismissed on summary judgment, Martinez was the prevailing party.

Martinez requests attorney fees on appeal. Upon compliance with RAP 18.1, Martinez is entitled to an award of attorney fees on appeal under the terms of the rental agreement.

We affirm.

WE CONCUR:

Dupre, C. S.

Schiveller, J.

Spencer, J.