

MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(St. Louis City)

J & M Securities

FILED
JUN 19 2014

22ND JUDICIAL CIRCUIT
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VS

CASE NO. 1322-AC10262

DIVISION 28

June 19, 2014

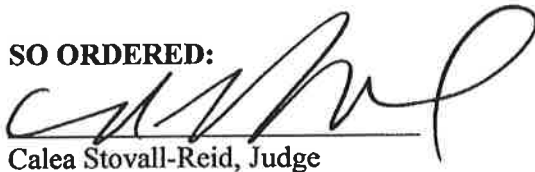
JUDGMENT AND ORDER

This cause was called for trial June 12, 2014. Parties appeared by and through counsel, Benjamin J. Sansone, for plaintiff and Evelyn B. Shaft (Rule 13 Intern) and Brendan Roediger (Supervising Attorney), for defendants. Evidence was adduced and this Court took the matter under submission.

This Court having considered the evidence and the applicable law finds in favor of plaintiff J & M Securities and against defendants [REDACTED]. This Court finds that plaintiff has established that it has suffered damages caused by defendants in the amount of \$5522.00. The court finds that plaintiff and Better Days Properties, LLC executed an Assignment of Claims and Causes of Action for Collection prior to the filing of this cause of action; defendants and Better Days Properties, LLC executed a lease agreement on 11/01/2009. The Court finds that the evidence establishes that the intentions of defendants and Better Days was to renew the lease twice, November 2010 and again in November 2011. "Generally, when a tenant holds over with the landlord's consent, a new tenancy arises and the law presumes that the holding-over is subject to the terms and conditions of the original lease, unless the contrary be shown." The Brittany Sobery Family Limited Partnership, DBA Bridgeport Crossing Apartments vs. Coinmach Corporation, 392 S.W.3d 46; (Mo. App. E.D. 2013) citing Grand Inv. Corp. v. Connaughton, Boyd & Kenter, P.C., 119 S.W.3d 101, 111 (Mo. App. W.D. 2003). There was no evidence provided by either party that the lease did not renew under its original terms. The Court finds that defendant provided notice of their intention to surrender the premises to Better Days

Properties and Better Days accepted that notice. Following the notice from defendants Better Days Properties, through its agents, took possession of the property with the intent to exercise control over it. At the time of surrender of said premises defendants had caused damage to the property, which after crediting defendants with their security deposit totaled \$872.00. After demand, defendants failed to pay the balance due on damages or the demand for rent in the amount of \$4850.00. The evidence from defendants and Better Days established that there was an event that occurred which caused defendants to request early termination of the lease. The Court finds that defendants' provided notice of their intent to vacate sometime during the month of May 2012, however defendants did not provide sixty days notice as provided by the terms of the lease. Better Days took possession of the premises and began making preparations to repair the damages and to lease the premises to new tenants on or about May 31, 2012, thus the lease was effectively terminated by the parties as of July 30, 2012. See National Alfalfa Dehydrating & Milling Co. v. 4010 Washington, Inc., 434 S.W.2d 757, 763 (Mo. App. W.D. 1968). Defendants' are responsible for \$872.00 for damage to the property, plus two months rent totaling \$1800.00, as per the (*Rental Payment Addendum* executed by the parties) and attorney fees in the amount of \$2750.00. This Court hereby enters **judgment in the amount of \$5522.00 against defendants** [REDACTED] Costs of court shall be assessed against defendants.

SO ORDERED:



Calea Stovall-Reid, Judge

cc:
Benjamin J. Sansone
Attorney at Law
7777 Bonhomme, Suite 2000
St. Louis, Missouri 63105

Brendan Roediger
Attorney at Law
St. Louis University School of Law
100 N. Tucker Boulevard
St. Louis, Missouri 63101