

## **NEPTUNE TOWNSHIP RENT LEVELING BOARD**

### **Minutes – April 7, 2016**

Ruth Johnson , Chairperson, called the meeting to order at 6:00 pm and requested the Secretary to call the roll. The following members were present: Morrel Massicot, Ruth Johnson Catherine McAphee, Jeff Klein and Connie Holmes. James Manning, Jr and Charles Woolfolk absent.

Mrs. Johnson stated adequate notice of this meeting as required by P.L. Chapter 231 has been provided by notice in the Coaster on January 28, 2016, which was posted on the bulletin board of the Municipal Complex and filing a said notice with the Municipal Clerk.

Mrs. Johnson announced that the Consumer Price Index [February's Index was 260.875, up 0.2% over the month and up to 0.6% over the year].

### **APPROVAL OF MINUTES**

Mrs. Johnson offered a motion, moved and seconded by Mr. Klein to approve the minutes of the meeting for March 10, 2016; all that were eligible to vote were in favor.

Mr. Klein offered a motion, moved and seconded by Mrs. Holmes to approve the minutes of the meeting for March 10, 2016; all that were eligible to vote were in favor.

### **HEARINGS**

Mr. Anthony explained that anyone who had a complaint before this board and also were scheduled to go to court for eviction could either have their case heard by the Rent Leveling Board or go to Court and request a Marini Hearing. If they were to go to court they would have to put money in escrow to cover any unpaid rents. If they decided they wanted the rent leveling board to hear their case they would have to make an agreement with the landlord regarding payments. Reginald Raisin #16-09 case was dismissed because he moved out of the apartment. Alexander McGrath #16-11 decided to have his matter heard in court and Cleopatra McGrath #16-12 her case will be heard by the Board on May 5, 2016

### **Hearing – Domonique Taylor #16-10 vs Neptune Housing Associates**

Andrew Sobel, attorney for Neptune Housing Associates was in attendance for this hearing as well as Avery Hoffman, Property Manager. Ms. Taylor who resides at 1516 Monroe Avenue, Neptune provided the following testimony:

Since moving into her apartment on or about December 1, 2015 at a monthly rent of \$1,050.00 per month, has had a bathroom tub that did not hold water, making bathing, rather than showering herself and her young child, almost impossible, and also the tub is subject to the chipping off of interior paint, and submitted into evidence pictures of the tub as Exhibits T-2 and T-3. She testified that on numerous occasions she spoke to the Property Manager in December, 2015 and January, 2016 verbally, requesting that the tub issue be addressed, specifically texting Eli Frischman on January 11, 2016 with Eli, the Property Manager, indicating each time that he would take care of the problem, but did not. A photograph of the aforesaid text submitted into evidence as Exhibit T-4. To date, the bathroom tub has not been repaired or remediated.

Landlord's attorney raised a Motion of Objection to exhibits representing pictures and copies of text messages based on the position that the landlord's attorney was seeing the exhibits for the first time during the hearing, and was not provided the discovery earlier. The attorney for the Board noted that the Rules of Evidence are not strictly followed for the Rent Board as they might be before the Superior Court of New Jersey, that the landlord's attorney did not request discovery, and that in any case she showed pictures of items that she was testifying about, and therefore represented demonstrative evidence. Therefore, the landlord's attorney's Motion was denied.

The bathroom tile floor is cracking and is not only unsightly, but dangerous to she and her young child. She said that the condition existed at the time she moved into the subject unit, and she spoke to Eli at that time and many times thereafter, but no action was taken to correct the situation.

The bathroom sink does not function properly and has no means for retaining water, and is connected to cabinetry that is broken. She submitted as evidence pictures of the sink and cabinetry as Exhibits T-5 and T-6 respectively. She also indicated, as in the other cases, that she notified Eli, the Property Manager, when she first moved into the subject unit about the problem, and numerous times thereafter, but no action has been taken to date.

The bathroom door has a hole, which makes opening and closing difficult, is aesthetically unpleasing, and causes effort to close and open. The door has also existed in its present condition since she moved into the unit, and complaints have been made to the Property Manager (Eli Frischman) without success or correction to date. She submitted as evidence a picture of the aforesaid door as Exhibit T-7.

The dining room window is and has been cracked since she moved into the subject unit, she has complaint to Eli Frischman about the same, and he has indicated continuously that the window would be fixed, but to date it has not been fixed. A picture of the aforesaid window was submitted as Exhibit T-8.

There are no window guards on the upstairs bedroom windows for her young three year old child for protection as required by law.

There are squirrels and opossums in the attic which causes a great deal of noise as identified as part of a Township of Neptune Code Enforcement Complaint filed March 11, 2016 and submitted into evidence as Exhibit T-9. It was not clear from the testimony whether the landlord was notified concerning the issue of the attic.

The Board finds that appropriate due process notice was given to the landlord. Appropriate notice by Certified Mail/Return Receipt Requested was made. The Neptune Township Rent Leveling Board has jurisdiction. It was determined that she received credit from the landlord for reasons which are unclear when she moved into the subject unit for the month of December, 2015; receiving one month's free rent, which she alleges was due to her delay in being provided the apartment from the time she submitted her application sometime in September, 2015, and the landlord argues that it was a credit due to the condition of the apartment.

The Board finds that the bathroom tub and its inability to hold water to allow for the bathing of either her or her three year old child, who should not be subject to a shower over a bath, and the chipping of the tub represents a significant deficiency (T-2, T-3), which resulted in numerous complaints to the landlord's then Property Manager, Eli Frischman, verbally, and as evidenced by Exhibit T-4, without remediation to date.

The Board finds evidence that the bathroom floor is cracked as set forth more fully in testimony, and is a significant deficiency and hazard to both she and her child, and that the tenant made numerous verbal complaints from the time she moved into the unit to the Property Manager, as well as an employee named Keith, without a reasonable or effective response to remediate the condition, and which remains as such to date.

The Board finds evidence that the bathroom sink is a significant deficiency that does not operate as a sink should, and that the cabinetry holding the sink is damaged, and that numerous attempts to complain to the Property Manager and employees were made without any reasonable or effective response to remediate, and that the condition continues to the present date. (Exhibits T-5 and T-6)

The Board finds that the door situation is not a significant deficiency, but merely an inconvenience or aesthetic issue. (Exhibit T-7).

The Board finds evidence that the dining room window (Exhibit T-8) is cracked, and may have been cracked since occupancy of the subject unit, and that the same is a significant deficiency.

The Board finds that the Property Manager and employees were notified on numerous occasions verbally without any reasonable or effective response in remediating the condition to date.

The Board finds that window guards, which are subject to a Statutory requirement, N.J.S.A. 55:13A-7.13 and N.J.A.C. 5:10-27.1 provides for jurisdiction in the Department of Community Affairs for enforcement and penalties and preempts the local Rent Board from taking action with regard to window guards for the protection of children, and that no action can be taken by the Board with regard to this item.

The Board finds insufficient evidence to establish significant deficiency or notice with regard to pests in the attic.

The Board voted on the percentage of reduction and the hearing was closed. The Board proceeded with the next hearing.

### **Hearing – Maurice and Leonie Everett #16-13 vs Neptune Housing Associates**

MAURICE AND LEONIE EVERETT, resides at 1514 Monroe Avenue, Apt. 22B Neptune Township, New Jersey Andrew Sobel, attorney for Neptune Housing Associates was in

attendance for this hearing as well as Avery Hoffman, Property Manager. Mr. & Mrs. Everett provided the following testimony:

That the tenants moved into the apartment on December 1, 2014 and since December 1, 2015 through January 14, 2016 the bathroom toilet did not work in an efficient fashion, often staying open and running constantly, with the chain being fixed by the landlord only on January 15, 2016. Five days later, on January 20, 2016, the toilet broke down completely and clogged and would not flush, and remained in this condition without repair through March 22, 2016, during which time the Complainants had to use a bag to go to the bathroom, or use outside facilities. The toilet issue was corrected in part on March 23, 2016, but from that date, continued to have toilet chain problems similar to the initial problems of December, 2015 through January 2016 to the present date. The Complainants notified the landlord according to testimony on numerous occasions, mostly verbally, and in some cases by text messages, but actions by the landlord as noted above were either delayed or not totally fulfilled.

The kitchen cabinets do not close, and the countertops and cabinets have wood damage and the countertops are rough and not finished, despite promises by the landlord's Property Manager from the beginning of occupancy that new countertops that are finished would be delivered. The kitchen sink sprayer does not work, causing difficulties in using the sink. The landlord was notified of the above issues since the beginning of occupancy and promised to correct, but has not done so despite numerous verbal and text message notices.

The kitchen sink does not work correctly, causing water to seep below the sink with the alleged development of mold or fungus. They notified the Property Manager and in particular Eli Frischman less than five months ago, and continued to verbally notify the landlord's Property Manager either by phone, text or in person at the office without correction.

The bathroom tub backed up and continues to have trouble backing up since March 22, 2015 until December 31, 2015 when it was corrected by them, not the landlord. They notified the Property Manager, Eli Frischman, and the landlord in general on numerous occasions verbally, left messages by voicemail and also spoke to an employee, Keith, but to date, no action has been taken by the landlord.

The windows in the kitchen and bathroom are cracked and have been since the first day of occupancy. There have been text notices and verbal notices to both the prior Property Manager, Eli Frischman, and employee, Keith, but with no reaction.

A panel in the bedroom door is falling off, and was defective from January 15, 2016 to March 22, 2016, when it was corrected. The landlord was notified, including Eli Frischman in the past, and Keith in the present concerning the matter.

They discovered bed bugs and mice in March of 2015, and the Complainants admit that they never notified the landlord concerning the bed bugs, but did notify the landlord concerning the mice issue and were given special tape strips to catch the mice, which seemed to work.

They stated they either had little or no heat in the months of January and February, 2016 in the bedrooms, bathroom and living room, and used space heaters to keep warm, and notified both Eli Frischman in January concerning the problem and later, Keith by verbal notification. They

could not provide evidence concerning what the temperature was in the apartment during January and February, 2016, and did not move out of the apartment during that time.

The Parking lot was not shoveled during a snowstorm that occurred on the weekend of January 22, 2016 and that the parking lot was not cleared until Wednesday, January 26, 2016, when the tenants were able to leave for work. The landlord was notified of the condition on Monday, January 24, 2016.

During cross examination by the landlord's attorney, it was noted: that mold or fungus underneath the sink was never professionally tested to determine whether it is mold or fungus; the tenants did not have any evidence concerning the temperature in the unit during January and February, and that the tenants never lived outside of the apartment due to conditions except the first week they moved in in 2014, which is beyond the one year requirement for review by the Rent Board, and that there are forms in the office to proceed with a work order, but according to the Everetts, office hours are not posted and access is allegedly difficult.

The Board finds that appropriate due process notice was given to the landlord.

The Neptune Township Rent Leveling Board has subject matter jurisdiction

The Board finds with regard to the bathroom toilet major significant deficiencies, varying in degrees of severity from running toilet on December 1, 2015 through January 14, 2016, total lack of use of the toilet from January 20, 2016 through March 22, 2016, and return of a problem with the chain and running of the toilet from March 23, 2016 to the present. It is clear that any tenant who cannot use the toilet or has difficulties using the toilet, and in this case allegedly had to use outside facilities or a bag has a vital facility which is severely deficient. The Board also finds that the Everetts made reasonable attempts to notify the landlord concerning this condition, and that the reaction by the landlord was unreasonably delayed and/or not appropriately corrected.

The Board finds that the kitchen cabinets and countertops, which existed the way they are now from the beginning of the tenancy, as well as the sink sprayer, is an inconvenience and a minor deficiency, but does not reach the level of significant deficiency providing for credits.

The Board finds that whatever leaking is occurring resulting in some sort of unnecessary growth or condition under the sink is a significant deficiency and has been for the last 8 months, which the Board determines to begin on September 1, 2015 and continues to the present date. The Board finds that the landlord was properly notified verbally, but did not respond and has not responded in a reasonable or effective manner to remediate the condition.

The Board finds sufficient evidence that the bathroom tub in the Everetts bathroom is a significant deficiency as it has experienced continued backup since March 22, 2015 through December 31, 2015 and that the matter has only been corrected by the Everetts, not the

landlord, and that the landlord was provided with reasonable and sufficient notification, but has not to date, nor did he ever, provide a reasonable or effective response to remediate the condition.

The Board finds that there is unrefuted evidence that the kitchen and bathroom windows are cracked as a significant deficiency, as they have been cracked since at least March 22, 2015 to the present, and that the landlord was notified of the same from the beginning and took absolutely no action to remediate the condition.

The Board finds that the panel in the bedroom door panel issue was an inconvenience and aesthetically unpleasant, but not a significant deficiency. This is not a reduced service allowing for a reduced rental value.

The Board finds the landlord was not notified of any bedbug situation, and therefore action cannot be taken by this Board concerning bedbugs. The Board also finds that the mice situation did exist, but was addressed by the landlord and apparently remediated within a reasonable amount of time in an effective manner.

The Board finds insufficient evidence as to what the heat situation was in the subject unit, and finds no action can be taken at this time with regard to allegations of lack of heat in January and February, 2016.

The Board finds that in light of the requirements of local ordinance for shoveling, which indicates a certain period of time which snow must be removed by the owner/landlord, in light of the fact that the snow fell and stopped within a weekend and there was a State of Emergency declared by the Governor, which prevented certain services from being performed, and in light of the fact that the snow was finally plowed by Wednesday, approximately the third day after the snow ceased, that there is insufficient evidence to provide for credits for lack of snowplowing with regard to this particular snow event.

The Board voted on the percentages for reduction and then the hearing was closed.

### **PUBLIC PARTICIPATION**

There were none.

Mrs. Johnson offered a motion to adjourn the meeting, moved and seconded by Mr. Klein. All were in favor.

Pamela D. Howard

Secretary