

NEPTUNE TOWNSHIP RENT LEVELING BOARD - AGENDA March 30, 2016 - 6pm

Ruth Johnson calls the meeting to order and requests the Secretary to call the roll:

ROLL CALL:

Connie Holmes _____ James Manning, Jr. _____ Morrel Massicot _____

Charles Woolfolk _____ Ruth Johnson _____

Flag Salute

Chairperson Johnson announces that the notice requirements of R.S. 10:4-18 have been satisfied by the publication of the required advertisement in The Coaster on March 17, 2016 posting the notice on the Board in the Municipal Complex, and filing a copy of the said notice with the Municipal Clerk.

Action Items:

1. Formalize Resolution Stacey Walker.

Offered by: _____ Seconded by: _____

Vote:

Holmes _____; Manning _____; Massicot _____; Woolfolk _____; Johnson _____;

Old Business:

DISCUSSION ITEMS:

1. Hearing – Paula Sloan 16-03 vs Neptune Associates

PUBLIC PARTICIPATION:

ADJOURNMENT (Time): _____

Offered by: _____ Seconded by: _____

Vote:

Holmes _____; Manning _____; Massicot _____; Woolfolk _____; Johnson _____;

RESOLUTION OF THE NEPTUNE TOWNSHIP RENT LEVELING BOARD
OF
TENANT'S COMPLAINT OF STACY WALKER

WHEREAS, the Neptune Township Rent Leveling Board was presented with a complaint by STACY WALKER, residing at 2016 Stratford Avenue, Neptune Township, New Jersey alleging reduction in services in violation of Section 4-30.9, entitled, "Standards of Service" of the Neptune Township Rent Control Ordinance, and an improper rent increase, and sought relief as a result thereof; and

WHEREAS, a hearing on the complaint was scheduled and heard on March 10, 2016, after service was made upon the landlord by Certified Mail/Return Receipt Requested, namely, Neptune Housing Associates, LLC, c/o Avery, at PO Box 436, New York, NY 10025, as submitted by the tenant, within the time period prescribed by local ordinance; and

WHEREAS, on March 10, 2016 the Complainant, STACY WALKER, and witnesses, Doug Proctor, of 2012 Stratford Avenue, Neptune, New Jersey and Paula Sloan, of 2020 Stratford Avenue, Neptune, New Jersey appeared before the Neptune Township Rent Leveling Board and testified, and the attorney for the landlord, namely, Andrew B. Sobel, of the law firm of Sobel Han, LLP of 691 Elizabeth Avenue, Suite 3, Newark, New Jersey 07712 appeared on behalf of the landlord and acknowledging service and receipt of the Complaint in this matter, and that the apartment complex is subject to rent control and the jurisdiction of the Rent Leveling Board; and

WHEREAS, the Neptune Township Rent Leveling Board, per the aforesaid complaint, received the following grievances and requests for relief:

1. That the tenant, since moving into the subject premises on December 1, 2015, has been disturbed to the point of making habitability difficult, if not impossible, due to noise coming from the inhabitants of an adjoining apartment at 2018 Stratford Avenue on a daily basis from 8 am to 12 midnight, and often in the early morning hours, as corroborated by witnesses Doug Proctor, a neighbor at 2012 Stratford Avenue and Paula Sloan of 2020 Stratford Avenue, and that the Complainant texted her complaints to management, and in particular the in-house manager, Eli Frischman, concerning this serious problem on December 3, 2015; December 8, 2015; December 10, 2015; December 11, 2015; December 14, 2015; December 15, 2015; December 17, 2015; December 22, 2015; December 23, 2015; January 4, 2016; January 8, 2016; January 11, 2016; January 19, 2016; January 21, 2016 and January 25, 2016, as submitted into evidence as Exhibit T-1, plus verbal complaints to the landlord, which have been formalized in writing and have been submitted into evidence as Exhibit T-2, a phone video/audio recording of noise submitted as

Exhibit T-3, and Police Reports submitted on December 2, 2015; December 6, 2015 and December 23, 2015, submitted into evidence as Exhibit T-4, without any alleged reasonable or effective response by the landlord to the present date.

2. That the bathroom tub experienced sewer backup on January 21, 2016, and a work order was written out and signed and provided to the landlord's manager, Eli Frischman, on January 21, 2016 and the tub was unclogged on February 1, 2016; but was unusable and required cleaning and painting, which occurred on February 2, 2016 and February 14, 2016, but was still not easily usable after the painting due to cracking and chipping from February 8, 2016 to the present date, as supported by confirmation emails of the Complainant, and photos of the tub submitted into evidence by the Complainant as Exhibit T-5.
3. That a hole in the wall provided for air conditioning, which was boarded up on August 13, 2015 in combination with an insufficient heating system provided lack of heat as prescribed and required by law, from January 1, 2016 through February 29, 2016, as evidenced by photographs of the boarded hole and thermometers indicating the temperature of the unit, submitted into evidence as T-6, and testimony that an electric heater had to be used to properly and legally heat the living room and bedroom, per the testimony of the Complainant.
4. That outdoor steps providing the only ingress and egress to the apartment building and the apartment unit have been in disrepair since at least May, 2015; for which the tenant has experienced difficult and hazardous conditions not only since she has resided in the subject unit, but while residing in a prior unit at 2030 Stratford Avenue in the same building (residing since 2013) and except for promises of repairs, the condition has only worsened, and allegedly tenant, Doug Proctor, fell as a result of said condition. The aforesaid conditions of said steps were verified by pictures submitted into evidence as Exhibit T-7.
5. That a window has remained cracked and broken both in the unit bedroom and bathroom since occupancy, and despite verbal complaints to the management (Eli Frischman), remains broken and cracked to the present date, as supported by pictures submitted into evidence as Exhibit T-8.
6. That there has been no extermination of "bugs" that exist in the subject property since occupancy as set forth in Exhibit T-9.
 - a. All of the foresaid complaints have been supported by Notices of Violations and Orders to Correct from the Code Enforcement Department of Neptune Township, and a Complaint Record of the Construction Department was submitted into evidence as Exhibit T-10.
7. That the tenant had an illegal rent increase from \$1,100.00 to \$1,144.00 since occupancy

NOW, THEREFORE, BE IT RESOLVED, by the Neptune Township Rent Leveling Board,
that the Neptune Township Rent Leveling Board has found the following facts:

1. The Board finds that appropriate due process notice was given to the landlord. Appropriate notice by Certified Mail/Return Receipt Requested was made in accordance with the law set forth more fully in the case of Ivy Hill Park, Section 3 v. Abutidze, 371 N.J. Super. 103 (2004), as acknowledged by the landlord's attorney, at the address provided to all tenants.
2. That the Neptune Township Rent Leveling Board has subject matter jurisdiction over the tenant and landlord, and the tenant/complainant has been a tenant in the subject apartment complex in two different units for over three years, and the tenant/complainant's unit is one of well over five (5) residential units in the apartment complex.
3. That the tenant, Stacy Walker, has occupied a unit at 2016 Stratford Avenue, Neptune, New Jersey, since December 1, 2015, and has experienced extreme and discomforting noise from unit 2018 Stratford Avenue, which has made habitability in the Complainant's present unit difficult, if not impossible, and which resulted in numerous complaints to the landlord both by text, verbal complaints, and through Police Department Reports and Police Department intervention as set forth more fully in Exhibits T-1, T-2, T-3 and T-4 from December 1, 2015 to the present, without a reasonable or effective response or action taken by the landlord. The Board also finds that the tenant made reasonable attempts to notify the landlord concerning the aforesaid condition.
4. That the Board finds unrefuted evidence that a bathroom tub in the Complainant's bathroom experienced an unusual sewer backup, which did result in final remediation by the landlord of the sewerage backup, but also resulted in the tub having limited use not only at the time of the sewer backup, but thereafter when the tub was painted improperly and resulted in peeling and cracking as set forth more fully in Exhibit T-5. The Board also finds that the tenant made reasonable attempts to notify the landlord concerning the aforesaid condition without a reasonable or effective response to totally remediate the condition.
5. That the Board finds that the tenant has occupied the unit with a Heating system, which is totally inadequate, leading to inadequate or no heat for 100 percent of the time throughout January and February of 2016, to the extent required by law. The Board finds that the air conditioner board may have been a factor in the lack of heat, but the primary cause was the general lack of heating system. Documentation concerning the aforesaid findings were submitted into evidence as Exhibit T-7. The Board also finds that the tenant made reasonable attempts to notify the landlord concerning the aforesaid condition without a reasonable or effective response.
6. That the Board finds that there is unrefuted evidence that the outdoor steps providing ingress and egress for the Complainant both while at the present residence and at a prior residence in the same complex, as well as to other tenants, was in disrepair and a safety and health hazard since May 1 of 2015 to the present, and that although the landlord has indicated a response to the issue, it has not reasonably or effectively remedied the situation to date.

7. That the Board finds that indeed, a bathroom and bedroom window are cracked and has been since occupancy of the property as set forth more fully in Exhibit T-8, and that the landlord has been placed on notice concerning the same, but has not reasonably or effectively responded

to the aforesaid complaint, and that such condition does provide for some habitability issues.

8. That the Board finds that allegations concerning bugs and the lack of extermination was insufficient, but not provided in the initial complaint in this matter, so as for the Board to find against the landlord, the Board so finds insufficient and untimely evidence.
9. The Board finds based on statements not only made by the tenant, but by the landlord's attorney, that there may have been an improper increase in rent from \$1,100.00 to \$1,144.00 but that some of the alleged increase may have been due to past fees due and owing. The Board accepts the stipulation by the landlord that the rent shall be returned to \$1,100.00 per month starting April 1, 2016, and the Board shall rely upon the landlord and tenant to address issues of credits and/or reimbursements concerning fees allegedly due and owing prior to the aforesaid month, and if the same cannot be resolved, the tenant shall have the right and the Board shall retain jurisdiction to hear a new complaint concerning illegal fees representing illegal rent increases at some future date.

The Neptune Township Rent Leveling Board hereby finds that the above referenced reduced services represent a reduced rental value, as set forth below and that the tenant, Complainant, Stacy Walker, shall be entitled to credits towards rents due and owing in the future, as set forth below.

BE IT ORDERED AND DETERMINED, as follows:

1. The Board finds that the issue of noise was a significant deficiency in the subject unit, resulting in reduction in rental value from December 1, 2015 through March 10, 2016 at a reduced rental value of twenty-five percent (25%) of the total base rent stipulated between the landlord through his attorney and the tenant at \$1,100.00 per month, at a daily reduced rental value from December 1, 2015 to March 10, 2016, or based on apportioned rent per day for the month of December, 2015 of \$35.48 and January, 2016 at \$35.48, a apportioned rent in February, 2016 of \$37.93 and March, 2016 of \$35.48, a twenty-five percent (25%) reduction in rental value represents the months of December, 2015; January, 2016; and March, 2016 (10 days) a credit of \$8.87 a day, and for the month of February, 2016 a credit of \$9.48 a day; for a grand total credit based on noise of \$913.56 (\$274.97, December, 2015; \$274.97, January, 2016; \$274.92, February, 2016; \$88.70, ten days of March, 2016).
2. The Board finds a significant deficiency with regard to the condition of the bathroom tub as testified to by the Complainant, resulting in reduced rental value that was subject to notification to the landlord who did not respond in a reasonable and efficient fashion, resulting in a reduced rental value of ten percent (10%) from January 21, 2016 to February 8, 2016, and three percent (3%) from February 9, 2016 to March 10, 2016, with a three percent (3%) reduction in rental value continuing if not corrected for all days for which such condition continues after March 10, 2016, which considering a rental amount chargeable to the tenant for each day in January, 2016 at \$35.48 a day and \$37.93 for each day in February and \$35.48 a day in March, 2016 (for 10 days) shall result in a credit to the tenant from January 21 –

January 31, 2016 of \$3.54 a day, or \$39.03 for the month of January;
from February 1 – February 8 of \$3.97 a day, or \$30.34; from

February 9 – February 29, 2016 at a three percent reduction (3%) in rental value of \$1.14 a day, or \$23.94; and from March 1 – March 10 at a three percent reduction (3%) of \$1.06 a day, or \$10.64, for a total credit of \$103.95.

3. The Board finds that the lack of sufficient heat legally required by law is a significant deficiency resulting in rental value reduction for the months of January and February at fifty percent (50%) of the rental value; the base rent of \$35.48 a day in January, 2016 and \$37.93 a day in February; resulting in a credit for January 1 – 31, 2016 of \$17.74 a day, and a credit for February 1 – 29, 2016 of \$18.97 a day, or for a total credit of \$1,100.07.
4. The Board finds that the outdoor step deficiency represents a significant deficiency, resulting in reduced rental value of two percent of the base rent from May 1, 2015 through March 10, 2016 based on the base rent of \$1,100.00 per month, represents a credit for the month of May, 2015 of \$22.01, June, 2015 of 21.90; July, 2015 of \$22.01; August, 2015 of \$22.01; September, 2015 of \$21.90; October, 2015 of 22.01; November, 2015 of \$21.90; December 31, 2015 of \$22.01; January, 2016 of \$22.01; February of 2016 of \$22.04 and March, 2016 (ten days) of \$7.10 for a credit of \$226.90.
5. The Board finds that the broken window in the bedroom and bathroom represents a significant deficiency, resulting in a reduced rental value of one percent (1%) from the date of occupancy on December 1, 2015 through March 10, 2016, with a credit for the month of December, 2015 of \$10.85; the month of January, 2016 of \$10.85; the month of February, 2016 of 11.02 and the month of March (10 days) of \$3.50, for a total credit of \$36.22.
6. Total credits due and owing with regard to all of the aforesaid deficiencies noted by the Board amount to \$2,380.70, which will be applied to reduction of rent for the month of May, 2016 as a full credit of \$1,100.00; a full credit for the month of June in the amount of \$1,100.00 and a partial credit in the month of July, 2016 of \$180.70; that is no rent will need be paid for the months of May and June, 2016 and a partial credit in the month of July, 2016.

IT IS FURTHER ORDERED AND DETERMINED at follows:

1. That with regard to the noise issue, should the landlord not correct the noise situation from March 11, 2016 through September 30, 2016, the tenant shall continue to receive a twenty-five percent (25%) credit on rent for each day in which the noise nuisance continues during the aforesaid months. It is, however, recognized that the landlord as of the day of the hearing offered the tenant reasonable relocation to another apartment of comparable size, location and price, and if the parties cannot resolve relocation issues or discontinue the noise issue by September 30, 2016, then all credits shall discontinue under this particular Order without prejudice. Should the noise situation cease at any time between March 11, 2016 and September 30, 2016, tenant may not take credits of twenty-five percent (25%) for those days in which no noise condition exists.
2. That should the landlord not correct the bathroom tub issue beyond March

10, 2016, the tenant shall be entitled to a credit of three percent (3%) of the base rent per day for each day in which the condition continues.

3. That if the landlord does not correct the heating situation anytime between March 11, 2016 through May 1, 2016, and during that time the heating situation is not in compliance with State Statute and local ordinance, the

tenant shall have a right to a credit of the base rent of fifty percent (50%) for each day in which there is a heating violation. After May 1, 2016, and beginning October 1, 2016, should the heating condition still exist, the tenant shall have the right to file a new complaint for reduced services for heat violation after October 1, 2016.

4. That if the landlord does not correct the outdoor step issue after March 10, 2016, the tenant shall be entitled to a two percent (2%) credit of the base rent per day until the condition is corrected.
5. That if the landlord does not correct the broken window condition after March 10, 2016, the tenant shall be entitled to a one percent (1%) credit per day for each day that the condition exists.

IT IS FURTHER ORDERED AND DETERMINED, that the municipal attorney is hereby authorized to provide the landlord, Neptune Housing Associates, LLC, through its attorney, Andrew B. Sobel, of the law firm of Sobel Han, LLP of 691 Elizabeth Avenue, Suite 3, Newark, New Jersey 07712, and the tenant, STACY WALKER, 2016 Stratford Avenue, Neptune Township, NJ 07753, with a written notice of this decision by copy of this resolution effective the date of execution of this resolution by supplying the same pursuant to Ordinance and that either the landlord or the tenant shall have a right within twenty (20) days of the date of the determination in accordance with the Neptune Township Rent Control Ordinance, Rules And Regulations of the Neptune Township Rent Leveling Board to file an appeal before the Neptune Township Committee.

SECONDED BY BOARD MEMBER

AND ADOPTED ON ROLL CALL BY THE FOLLOWING VOTES: ROLL CALL

Affirmative:

Negative: Absent:

Dated: March 30, 2016