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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

NICOLA HRUBEC,) Case No.
)
Plaintiff,	) COMPLAINT
	) (Violation of Residential Landlord and Tenant
v.	) Act, ORS §90.320 / Negligence / Negligent
	) Infliction of Emotional Distress / Accounting,
2615 NW 194TH TERRACE	) ORS §90.300 / Unregister Assumed Business
APARTMENTS INVESTORS LLC;	) Name)
HOLLAND RESIDENTIAL, LLC; and)
HOLLAND PARTNER GROUP	) Damages in the amount of \$292,000; filing fee
MANAGEMENT INC.,	) per ORS §21.160(1)(c)
)
Defendants.	) NOT SUBJECT TO MANDATORY
	) ARBITRATION

COMPLAINT

Plaintiff, Nicola Hrubec (“Plaintiff”) through counsel, alleges as follows:

1.

Plaintiff was a tenant at 2985 NW Moda Way, #315, Hillsboro, Oregon 97124 (“Location”) under a lease that started on or about September 1, 2016. The lease was for a unit at the Palladia Apartments owned by 2615 NW 194th Terrace Apartment Investors, LLC and managed by Holland Residential, LLC, with Holland Partner Group Management Inc. as the parent company of Holland Residential, LLC (collectively referred to as “Defendants”), with all acting as landlords.

1 2.

2 Plaintiff is a resident of Massachusetts.

3 3.

4 At all relevant times mentioned herein, 2615 NW 194th Terrace Apartment Investors,
5 LLC (“Investors Landlord”), was a registered foreign limited liability company organized under
6 the laws of the State of Delaware with a principal place of business in Hartford, Connecticut.
7 LLC Landlord’s registered agent is located in Marion County, Oregon. At all relevant times,
8 LLC Landlord was a landlord of the Location.

9 4.

10 At all relevant times mentioned herein, Holland Partner Group Management Inc.
11 (“Partner Landlord”), was a registered foreign business corporation organized under the laws of
12 the State of Delaware with a principal place of business in Vancouver, Washington. Partner
13 Landlord’s registered agent is located in Multnomah County, Oregon. At all relevant times,
14 Partner Landlord was a landlord of the Location.

15 5.

16 At all relevant times mentioned herein, Holland Residential, LLC (“Residential
17 Landlord”), was a registered foreign limited liability company organized under the laws of the
18 State of Washington with a principal place of business in Vancouver, Washington. Residential
19 Landlord’s registered agent is located in Multnomah County, Oregon. At all relevant times,
20 Residential Landlord was a landlord of the Location.

21 6.

22 Each of the Defendants is either directly liable for their own acts and omissions as a
23 landlord, or are vicariously liable for their acts and omissions committed as the agent of the
24 landlord.

1 7.

2 This court has jurisdiction over the subject matter and the parties to this case. Venue
3 properly lies in Multnomah County.

4 8.

5 Plaintiffs reserve the right to amend this complaint pursuant to ORS §31.725.

6
7 **FIRST CLAIM FOR RELIEF**

8 (Violation of the Residential Landlord Tenant Act, ORS §90.320, et seq.)

9 9.

10 Plaintiff re-alleges paragraphs 1-8 above as though fully set forth herein.

11 10.

12 Plaintiff, as tenant, leased the property as a residential dwelling. Plaintiff paid rent in a
13 timely and regular manner and fulfilled all obligations of the rental agreement until the property
14 became uninhabitable and they developed adverse health effects and had to vacate the property.

15 11.

16 Pursuant to the Residential Landlord and Tenant Act, ORS §90.320 et. seq., Defendants
17 owed Plaintiff the duty to regularly inspect and adequately maintain the leased premises in a safe
18 and habitable condition. Defendants breached this duty, as well as the implied warranty of
19 habitability in many ways. Before leasing the property to Plaintiffs, Defendants knew of water
20 infiltration inside the building envelope and took inadequate steps to eliminate mold and other
21 contaminants. Instead of properly eradicating the mold and addressing water damaged areas,
22 Defendants concealed the mold by painting over it. Defendants also failed to correct gaps in the
23 buildings envelope. These omissions allowed for water infiltration that led to the growth of
24 toxigenic mold at the Location.

12.

These conditions caused the building to become unsafe and uninhabitable, in violation of ORS §90.320. Despite repeatedly being notified of these conditions by Plaintiff and other tenants in the same building, Defendants failed to adequately remedy these conditions.



13.

As a result of Defendants' violations of ORS §90.320, Plaintiff sustained the following foreseeable injuries, including respiratory distress, wheezing, burning in throat and lungs, fatigue, urticaria, and other medical conditions, leading to pain and suffering as well as emotional distress. Plaintiff has suffered non-economic damages in the amount of \$250,000.

14.

In addition, as a result of Defendants' violation of the law, Plaintiff suffered the following economic damages:

- a) Reasonable and necessary past medical expenses in the approximate sum of \$10,000;
- b) Reasonable and necessary future medical expenses in an amount to be determined at the time of trial, but for the purposes of ORCP 18, are estimated to be \$10,000;
- c) Contamination of Plaintiff's personal property, the cost to repair or replace being in the approximate amount of \$15,000; and
- d) Loss of income, estimated to be \$6,000.

15.

Plaintiff is entitled to recover reasonable costs and attorney fees in this case, pursuant to ORS §90.255.

SECOND CLAIM FOR RELIEF

(Negligence)

16.

Plaintiff re-alleges paragraphs 1-55 above as though fully set forth herein.

17.

Defendants owed a duty of care to Plaintiff, who was a business invitee. Among those duties was the duty to maintain the leased premises in a safe and habitable condition. It was reasonably foreseeable that if Defendants were negligent in maintaining the building, its occupants could become ill and their property could become contaminated.

18.

Defendants breached their duties to Plaintiff and were negligent in that they failed to maintain the dwelling in a safe and habitable condition, and neglected to inspect, discover and/or

1 adequately repair certain water damage and leaks in the apartment building. Defendants were
2 also negligent in not eradicating mold in contaminated areas of the building, and in simply
3 covering the mold with paint. On information and belief, Defendants were also negligent in not
4 removing defect Chinese drywall.

5 19.

6 As a direct result of Defendants' negligence, Plaintiff sustained non-economic damages
7 as outline in paragraph 13 above.

8 20.

9 As a direct result of Defendants' negligence, Plaintiff sustained economic damages as
10 outline in paragraph 14 above.

11
12 **THIRD CLAIM FOR RELIEF**

13 (Negligent Infliction of Emotional Distress)

14 21.

15 Plaintiff re-alleges paragraphs 1-20 above as though fully set forth herein.

16 22.

17 Defendants had a duty towards Plaintiff to provide a habitable residence in conformance
18 with state law. The Oregon Landlord Tenant Act establishes a duty of care by landlords, that was
19 then breached by the unlawful entries and the habitability issues of the Location.

20 23.

21 These negligent actions by Defendants directly caused the emotional injuries to Plaintiff
22 as described above in paragraph 13.

1 **FOURTH CLAIM FOR RELIEF**

2 (Accounting, ORS §90.300)

3 24.

4 Plaintiff re-alleges paragraphs 1-23 above as though fully set forth herein.

5 25.

6 Upon vacating the Location, Defendants were required to provide an accounting within
7 31 days in order to claim any security deposit. To the extent there was an accounting, it failed to
8 factor in various concessions made by Defendants, as well as the fact that Plaintiff was entitled
9 to a reduction of rent for the time the apartment was uninhabitable, and thus the security deposit
10 has been improperly withheld. This was a violation of ORS §90.300, et seq., which allows for
11 Plaintiff to recover twice the amount withheld.

12 26.

13 Plaintiff is also entitled to reasonable attorney's fees pursuant to ORS §90.255.

14 **FIFTH CLAIM FOR RELIEF**

15 (Unregister Assumed Business Name, ORS §648.010)

16 27.

17 Plaintiff re-alleges paragraphs 1-26 above as though fully set forth herein.

18 28.

19 Defendants do not have current registrations on file with the Oregon Secretary of State
20 for Palladia Apartments nor Holland Residential Services. One or both Defendants is conducting,
21 transacting, or carrying business in Oregon using these names, which is in violation of ORS
22 §648.010. Plaintiff is entitled to recover \$500 or actual damages for each violation. ORS
23 §648.135(2).
24

1 29.

2 Plaintiff is also entitled to reasonable attorney's fees under ORS §648.135(2) as to each
3 violation.

4
5 **PRAYER FOR RELIEF**

6 30.

7 **WHEREFORE**, Plaintiff prays for judgment against all Defendants as follows:

- 8 a) Non-economic damages in the amount to be determined by the trier of fact to
9 fairly compensate Plaintiff in accordance with Oregon law, and not to exceed
10 \$250,000.00;
- 11 b) Economic damages in the amount to be determined by the trier of fact to fairly
12 compensate Plaintiff in accordance with Oregon law, and not to exceed
13 \$41,000.00;
- 14 c) Statutory damages of \$1,000;
- 15 d) Reasonable attorney's fees under ORS §90.255 for Counts 1 & 4;
- 16 e) Reasonable attorney's fees under ORS §648.135(2) for Count 5;
- 17 f) Costs and disbursements incurred herein; and
- 18 g) Other relief as the Court deems just and equitable.
- 19

20 Dated: December 23, 2017

Respectfully submitted,

21 **STEVENS & LEGAL, LLC**

22 /s/ Michael O. Stevens

23 Michael O. Stevens, OSB No. 095198
24 Attorney for Plaintiff

Trial Attorney:

Michael O. Stevens, OSB No. 095198