

STATE OF VERMONT

SUPERIOR COURT
Orange Unit

CIVIL DIVISION
Docket No. 265-12-09 Oecv

David Labrecque
Plaintiff

v.

Russell Royce and William J. Kevan, Jr.
Defendants

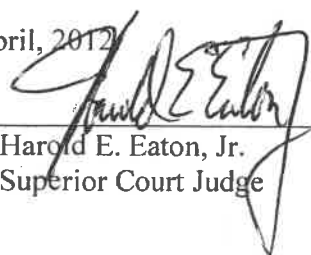
Decision on Plaintiff's Motion for Summary Judgment

Plaintiff David Labrecque seeks partial summary judgment on his claims that defendants Russell Royce and William Kevan committed six separate violations of the Vermont Residential Rental Agreements Act and at least one violation of the Vermont Consumer Fraud Act in connection with a former landlord-tenant relationship between the parties. See *L'Esperance v. Benware*, 2003 VT 43, ¶¶ 12–19, 175 Vt. 292 (discussing relationship between the RRAA and the CFA). Plaintiff asserts that the undisputed facts establish that a termination notice was improperly sent, that the termination was conducted for retaliatory purposes, that certain improper methods of self-help eviction were attempted or used, that defendants entered the apartment without proper notice, that defendants failed to send an itemized statement of damages with respect to the security deposit, and that defendants generally engaged in a campaign of harassment in an attempt to end plaintiff's tenancy.

A review of defendants' response shows that many of the material facts are directly disputed. Defendants contend, for example, that the locks were not changed, that the heat was not shut off, and that they did not make the alleged slurs or otherwise engage in a pattern of harassment. Defendants also offer a competing timeline of events and notices regarding the alleged termination of the tenancy, contending, for example, that plaintiff "left of his own volition" and abandoned the apartment by mid-January. In short, the parties have such different narratives of their relationship that it would be impossible to frame a statement of the "undisputed" facts for purposes of a summary-judgment decision. See *Cassani v. Hale*, 2010 VT 8, ¶ 20, 187 Vt. 336 (emphasizing that summary judgment is appropriately entered only when "the facts bearing on the issue are clear, undisputed, or unrefuted" when the entire setting of the case is taken into account). For these reasons, the more prudent course in this matter is to schedule a trial to resolve the many disputed issues of fact. See *Pierce v. Riggs*, 149 Vt. 136, 139–40 (1987) (explaining that trials, rather than summary judgment, are the proper method for determining disputed issues of fact and credibility of witnesses).

For the foregoing reasons, Plaintiff's Motion for Summary Judgment (MPR #11), filed January 4, 2012, is **denied**.

Dated at Chelsea, Vermont this 9 day of April, 2012


Harold E. Eaton, Jr.
Superior Court Judge

