

FILED
07-11-2023
Clerk of Circuit Court
Waukesha County

STATE OF WISCONSIN CIRCUIT COURT BRANCH __ WAUKESHA COUNTY

DESSA BEARDEN, KYLE JENSEN, ANDREW
JANNY, CORDARIO GOOCH, KAREEM
BEARDEN, and JESSE ANDERSON,

Plaintiffs,

Case Type: Declaratory Judgment

v.

Case Code: 30701

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE, AND CONSUMER PROTECTION,

Case No.

and

WISCONSIN DEPARTMENT OF JUSTICE

Defendants.

AFFIDAVIT OF KAREEM BEARDEN

Kareem Bearden, being first sworn under oath, deposes and states as follows:

1. My name is Kareem Bearden. I am over 18 years' old and a resident of Wisconsin. My statements herein are based on my personal knowledge.

2. I own a duplex with two rental units at 3953 N. 23rd Street in Milwaukee, Wisconsin.

3. My mother purchased the property approximately 18 years ago and I manage the property by myself.

4. All rental income from the property is allocated to my elderly mother's medical expenses.

5. I have had a total of eight tenants live at the property over the past 18 years. My current tenants are a family of four in the first unit and a single renter in the second unit. Many landlords would decline to enter a lease with my single tenant

because of his age and profile, but I wanted to give him a chance to build his credibility and it has worked out well.

6. As their landlord and property manager, I respond to all of their housing needs. I collect the rent checks, I draft and sign the leases, and I respond to maintenance requests. I have used contractors to respond to immediate housing needs, but I attempt to do routine maintenance requests myself.

7. I understand that my tenants choose to rent my property because of its proximity to schools and I take very good care of the units and property's exterior.

8. I first learned of the Wisconsin Department of Agriculture, Trade, and Consumer Protection and Wisconsin Administrative Code Sections ATCP 134.06(3), ATCP 134.06(4), and ATCP 134.09(2) through word of mouth from other landlords. I have read and try, to the best of my ability, to understand these regulations. I attempt to comply with them.

9. Yet these regulations make it extremely challenging to be a compliant and effective landlord.

10. For example, Section 134.06(3) is extremely confusing and causes me to incur unnecessary costs. I do not know what the regulation means by "tenant damage, waste, or neglect" versus "normal wear and tear." I fear that even if I deduct the cost of repairs for fixing a broken fixture caused by my tenants, then I will still violate this law because it could have been "normal wear and tear." As a result, I have returned more of the security deposit to my tenants even though there would be instances where I firmly believe that they should pay for repairs due to their

negligence or even possible intentional acts. I therefore lose money as a result—having to pay for these repairs out of my own pocket.

11. I also cannot say for sure when a tenant is or is not “legally responsible” to pay for something “under applicable law.” I am not a legal expert.

12. Similarly, Section 134.06(4) is confusing. It requires landlords to provide a particular kind of statement for security deposit withholdings, but is unclear how detailed that statement must be. It requires landlords to “describe each item of physical damages or other claim made against the security deposit,” but does not define “item of physical damages” or “claim.” I therefore must spend time and resources providing excessive detail in my withholding statements or, in the alternative, forgo withholding amounts to which I would otherwise be entitled, for fear of running afoul of this provision.

13. Section 134.09(2) is similarly confusing and impairs my relationship with my tenants and property. As I understand this regulation, I cannot visit my property for a routine inspection or to check on my tenants unless I comply with the ambiguous steps detailed in the regulation or insert a “nonstandard rental provision.” I fear I could lose tenants because of this regulation. When I remind my tenants of this regulation’s obligations, despite my efforts to explain otherwise, I believe they feel I am attempting to evade the costs of performing any repairs and may terminate their lease.

14. Section 134.09(2) further says that, when a “tenant is absent and [I] reasonably believe[] that entry is necessary to protect the premises from damage,”

then I can enter. How can I ever know whether my tenants are “absent”? And if they are just temporarily out of the unit, are they “absent”? And how do I determine whether “entry is necessary” rather than just the preferred or most logical option to prevent damage? The regulations offer no guidance whatsoever regarding these questions. My tenants work at all hours of the day and night, and I avoid prying into their personal and professional lives.

15. Because I have trouble understanding the specific contours of Section 134.09(2), and due to fear of violating this regulation, I refrain from regularly checking in on my property to protect it against significant damage, such as a water leak. And if there were such a leak, I am not sure whether I could enter to fix it, even having given advance notice. If I have to replace a leaking faucet or pipe, am I conducting a permissible “repair”? Or is a replacement different from a repair? And how do I know when a “health or safety emergency exists” that would allow me to enter? A water leak could cause damage or mold that would threaten health or safety, but when is it an “emergency”?

16. I also fear I could lose tenants because of Section 134.09(2). When I remind my tenants of this regulation’s obligations, I believe they feel I am attempting to evade the costs of performing any repairs despite my efforts to explain otherwise.

17. Unfortunately, for this regulation and the others mentioned above, I cannot afford attorneys to review all my landlord activities for compliance.

18. Consequently, I fear prosecution from the government for accidentally violating these unclear and confusing laws and live with the constant threat of

enforcement hanging over me. I “tip toe” around every interaction with my tenant because I am afraid of DATCP prosecuting me for violations of these regulations.

19. I would like to buy more rental properties but will not do so because of these and other confusing regulations. I feel by purchasing more properties I am only exposing myself to lawsuits, and worse, criminal prosecution.

20. Criminal prosecution for violating these regulations would be devastating in several ways. Most importantly, it would prevent me from maintaining my rental property, and in turn, take away the primary source of income to care for my mother and cover her substantial medical expenses.

21. Next, I am keenly aware of the stigma and consequences of government prosecutions. In 2021, I was pardoned by Governor Evers for a marijuana conviction in the early 2000’s. Even after my pardon, I still work hard to maintain my reputation for honesty, integrity, and professionalism as a landlord. A new prosecution for violating the above-mentioned regulations would destroy the goodwill I have earned as a landlord and citizen.

22. I am also a commercial truck driver and fear I could lose my commercial license if I am prosecuted or convicted for violating any one of these obscure regulations.

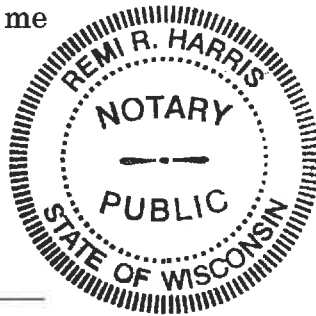
23. Almost every one of my renters has come to me by way of referral from prior tenants. Any prosecution for violating these regulations would cause me to lose those referrals and damage my relationship with current tenants.

24. Lastly, I am a sole proprietor, I have not set up a separate company, such as a limited liability company, to protect me from liability. I fear that government prosecution for violating these vague laws could bankrupt me personally.

Signed in Milwaukee, Wisconsin on June 27, 2023.

Kareem Bearden
Kareem Bearden

Subscribed and sworn to before me
this 27th day of June 2023



Remi Harris

my commission expires
June 13, 2024