

LANDLORD-TENANT LAW---COURT ORDERS REDUCED RENTAL

Gambino v. Berzito (Union County District Court,
Docket No. T-13999, Decided June 18, 1970) by
Nicholas J. Schuldt, Union County Legal Services.

This decision, rendered prior to Academy Spires v. Brown, 20 State Clearing House Report 11 (July, 1970), is similar to that case in that a tenant under an oral lease who withheld rent was granted a reduction in the amount owed. The tenant, being charged \$150 per month for a furnished apartment, was approximately 5 months in arrears when the landlord instituted this summary dispossess action. At the trial, photographs and eyewitness testimony by the Legal Services investigator were introduced to document the allegedly deplorable conditions in the tenant's

apartment. Judge Donald McKenzie, in an oral opinion, ordered that the rent be reduced to \$75 per month because of the landlord's failure to maintain the premises in a habitable condition, and dismissed, without prejudice, the landlord's claim for back rent.

The tenant then instituted suit against the landlord for the return of half the rent for those months when the tenant had paid the full \$150, alleging nonhabitability because the apartment had gaping holes in the plaster, defective wiring, inadequate heat, roaches and rodents, and dirty hallways. The landlord counterclaimed for damages allegedly caused by the tenant. This matter is scheduled for trial on October 30.

Meanwhile, the landlord had instituted a second suit for possession based upon rent arrears, which, in light of the court's previous decision, were computed at the rate of \$75 per month. At trial on July 6, the tenant argued that the suit for possession ought to be postponed because of her pending suit for return of previously paid rent, and that this action by the landlord was a retaliatory eviction. Judge McKenzie ruled against the tenant on both contentions, but the tenant raised sufficient money to pay the arrears and remain in possession.

Synopsis; Complaint; Answer and Counterclaim; Answer to Counterclaim.

LANDLORD-TENANT LAW---RENT ABATEMENT GRANTED

Vojacek v. Curry (Essex County District Court, Docket No. T-218030, Decided June 24, 1970) by Laura Kahn, Newark-Essex Joint Law Reform Project.

In this case, as in Gambino v. Berzito above, a tenant who withheld rent was granted a reduction in the amount owed. The trial occurred after the Appellate Division refused to order the matter transferred to the Superior Court under N.J.S.A. 2A:18-60 and remanded it to the County District Court for proceedings in accordance with Marini v. Ireland, 56 N.J. 170 (1970), see 19 State Clearing House Report 9 (June, 1970).

After hearing testimony concerning the condition of the premises, Judge Leo Yanoff, in an oral decision, ordered a 50% reduction in the amount of rent owed for the period from January 1, 1969 to March 10, 1969. Citing his decision in Academy Spires v. Brown, 20 State Clearing House Report 11 (July, 1969), Judge Yanoff

held that the tenant was entitled to an abatement in rent corresponding to the reduced habitability of the premises. Rats, odors caused by sewage backup, and a large hole in the bathroom ceiling created conditions of nonhabitability, he ruled.

No opinion available.

