

LANDLORD-TENANT - RENT ABATEMENT

Samuelson v. Quinones (Superior Court of New Jersey, Appellate Division, Docket No. A-1887-70) By Richard E. Blumberg, Newark -Essex Joint Law Reform Project, and Stanley Varon and Edward Jasie, Newark Legal Services Project.

In sharp contrast to the Berzito decision, Appellate Division Judges Lewis, Halpern and Lora, in a June per curiam decision, reversed and remanded an Essex County District Court decision that there should not be rent abatement for the entire period of a tenancy even in the face of a condition of uninhabitability (most notably, a lack of heating). The Court examined landmark landlord-tenant cases nationally such as Javins v. The First National Realty Corp., 428 F. 2d 1071 (D.C. Cir), cert. denied 400 U.S. 925 (1970); William J. Davis, Inc. v. Slade, 271 A. 2d 412 (D.C. App. 1970). It mentioned briefly the cases incorporating applicable housing ordinances and building codes as standards for habitability. Then, without clearly indicating whether codes were in fact to be used as standards, the Court indicated that the proper procedure when premises are uninhabitable from the inception of the tenancy is to treat the lease as void and illegal, awarding the landlord the reasonable value of the premises, taking into account the conditions making them uninhabitable for the period of occupancy. Then, from this reasonable value, the court implied that there should be a reduction for additional defective conditions. These additional adjustments are to be made as of the date of the summary dispossess proceeding, but only these lesser defects are to be so limited. The case was remanded to the Essex County District Court for further proceedings.

Decision; Brief and Appendix on behalf of Tenants.