

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Michele Crowe,

Defendant.

Civil Action No.: 2:17-cv-385

COMPLAINT

Plaintiff, the United States of America, alleges as follows:

INTRODUCTION

1. The United States brings this action under the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. §§ 3901-4043, against Michele Crowe (hereinafter referred to as "Defendant") for violating the SCRA's prohibition against imposing an early termination charge when a servicemember terminates a residential lease upon receipt of permanent change of station ("PCS) orders or orders to deploy with a military unit for at least 90 days.
2. The purpose of the SCRA is to provide servicemembers with protections so that they can devote their entire energy to the Nation's defense. One of those protections is the right to terminate residential leases under certain circumstances when relocation is necessitated by their military service.
3. A landlord's imposition of an early termination charge when a servicemember terminates a residential lease pursuant to the SCRA violates that servicemember's federally protected right to an early termination without penalty.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 50 U.S.C. § 4041.
5. Venue is proper in this judicial district under 28 U.S.C. § 1391(b), because the rental property at issue is located in the Middle District of Alabama.

DEFENDANT

6. Defendant is a resident of Montgomery, Alabama.
7. At all times relevant to this Complaint, Defendant owned and managed the single-family dwelling located at 9578 Graythorne Way in Montgomery, Alabama.

FACTUAL ALLEGATIONS

8. On July 2, 2015, Air Force Major Kyle Takamura and his wife, Mariel Takamura, entered into a residential lease for the single-family dwelling located at 9578 Graythorne Way in Montgomery, Alabama. Major Takamura had moved to Montgomery to attend the Air Command and Staff College (“ACSC”), a program that runs from late July to early June at Maxwell-Gunter Air Force Base.
9. The lease ran until June 30, 2016, with rent of \$1,450 a month. Major Takamura was also required to pay a security deposit of \$1,450, as well as a pet deposit of \$600 for his two dogs, half of which was refundable if the dogs caused no damage.
10. Paragraph 15 of the lease contained the following provision:

Military Orders. In the event that Tenant receives official U.S. Military Orders to relocate more than fifty (50) miles from the greater Montgomery, Alabama area (“Military Transfer”), Tenant may terminate this Rental Agreement prior to the end of the Term upon thirty (30) calendar days’ written notice to the Landlord. A voluntary separation from the military shall not constitute a Military Transfer for purposes of terminating this Agreement early. The Security Deposit shall be

forfeited in the event of a transfer resulting in such early termination of this agreement.

11. On or about April 11, 2016, Major Takamura received permanent change of station (“PCS”) orders, requiring him to report no later than July 31, 2016 to the Pentagon in Arlington, Virginia.
12. On April 27, 2016, Major Takamura sent a lease termination notice and a copy of his PCS orders by U.S. mail, return receipt requested, to Defendant. The notice indicated that he would vacate the residence no later than May 31, 2016, which was 30 days after the next date rent was due under the lease (May 1). The termination notice also requested that the security deposit of \$1,450 be returned.
13. On April 28, 2016, Defendant replied via email, confirming receipt of the termination notice and the orders.
14. On May 31, 2016, Major Takamura and his wife and two minor sons vacated the apartment. As of the date of move-out, Major Takamura was current on his rent payments.
15. On June 6, 2016, Major Takamura graduated from ACSC. He and his wife and children began driving to Virginia that evening. Major Takamura began his new position at the Pentagon on June 13, 2016. If he had started at his new position any later, he would have been required to expend personal leave days.
16. On July 1, 2016, Defendant e-mailed Major Takamura and informed him that she would not be returning the security deposit, citing paragraph 15 of the lease. Defendant also indicated that she would not be returning any of the pet deposit, claiming pet-related damages. In addition to retaining the security deposit and the entire pet deposit,

- Defendant claimed that Major Takamura owed her \$3,339.03 for purported damages to the property, plus \$90 for an extra day's rent. She requested payment within 30 days.
17. The \$3,339.02 in damages claimed by Defendant included \$2,000 for replacement of "dead" trees, as well as damages for replacing dead plants, refinishing the front door, repairing the hall floor, replacing a bathtub faucet, repainting, and hiring a professional maid service. Most of these purported damages, including the cost for tree replacement, were not appropriately charged to Major Takamura.
 18. On August 4, 2016, Major Takamura's military legal assistance attorney forwarded to Defendant a written accounting, prepared by Major Takamura, asserting that all but \$250 of the damages claimed were baseless. Defendant did not provide Major Takamura or his military legal assistance attorney a response to this accounting.
 19. On August 25, 2016, the Department of Justice notified Defendant that it was opening an investigation into Defendant's conduct and requested information and documents.
 20. On September 27, 2016, the Department of Justice received a response from Defendant. Defendant provided a revised accounting of the purported damages, which, although it appeared to credit the security deposit against the damages and exclude the \$90 charge for an extra day's rent, still claimed that Major Takamura owed her over \$1,500 in excess damages above and beyond the retained security deposit and pet deposit. In a subsequent letter to the Department of Justice dated November 10, 2016, Defendant threatened to file a civil lawsuit against Major Takamura if he did not send her a check or money order for \$1,564.29. To date, Major Takamura has not received a refund of any portion of his security deposit or pet deposit.

SERVICEMEMBERS CIVIL RELIEF ACT VIOLATIONS

21. The SCRA provides that, “[t]he lessee on a [residential] lease...may, at the lessee’s option, terminate the lease at any time after...the date of the lessee’s military orders.” 50 U.S.C. § 3955(a)(1). This option applies to servicemembers who, “while in military service, execute[] the lease and thereafter receive[] military orders for a permanent change of station” 50 U.S.C. § 3955(b)(1)(B). Termination may be made “by delivery by the lessee of written notice of such termination, and a copy of the servicemember’s military orders, to the lessor.” 50 U.S.C. § 3955(c)(1)(A). Termination of leases involving monthly rent payments “is effective 30 days after the first date on which the next rental payment is due and payable after the date on which the [termination] notice...is delivered.” 50 U.S.C. § 3955(d)(1). “The lessor may not impose an early termination charge, but any taxes, summonses, or other obligations and liabilities of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.” 50 U.S.C. § 3955(e)(1).
22. The language in paragraph 15 of the lease constitutes a facial violation of the SCRA.
23. Defendant refused to refund Major Takamura’s security deposit, asserting that he had forfeited it by terminating the lease early due to his military transfer, thereby imposing an early termination charge.
24. Defendant demanded that Major Takamura pay damages that were not “reasonable charges to the lessee for excess wear” and therefore constitute an early termination charge.

25. Due to the fact that ACSC and other programs at Maxwell-Gunter Air Force Base (AFB) do not last for a full twelve months, and servicemembers completing those programs frequently receive PCS orders upon completion, disputes between servicemembers and landlords about early termination of leases arise with some frequency in the area surrounding Maxwell-Gunter AFB.
26. Defendant's use of lease language that facially violates the SCRA and imposition of early termination charges when Major Takamura exercised his right to terminate his lease raise an issue of significant public importance.
27. Major Takamura is a "person aggrieved" pursuant to 50 U.S.C. § 4041(b)(2) and has suffered damages as a result of Defendant's conduct.
28. Defendant's conduct was intentional, willful, and taken in disregard for the rights of servicemembers.

RELIEF REQUESTED

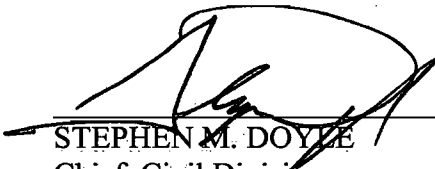
WHEREFORE, the United States requests that the Court enter an ORDER that:

1. Declares that Defendant's conduct violated the SCRA;
2. Enjoins Defendant, her agents and employees, and all other persons and entities in active concert or participation with her from:
 - a. including a provision in any residential lease that requires servicemembers who terminate the lease in accordance with the SCRA to forfeit their security deposit or pay any other early termination charge;
 - b. imposing an early termination charge when a protected servicemember terminates a residential lease early, in violation of the SCRA, 50 U.S.C. § 3955;

- c. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Major Takamura and his wife and children to the position they would have been in but for Defendant's illegal conduct; and
 - d. failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any illegal conduct in the future and to eliminate, to the extent practicable, the effects of Defendant's illegal conduct;
- 3. Awards appropriate monetary damages to Major Takamura and Muriel Takamura, pursuant to 50 U.S.C. § 4041(b)(2); and
 - 4. Assesses civil penalties against Defendant in order to vindicate the public interest, pursuant to 50 U.S.C. § 4041(b)(3).

The United States further requests such additional relief as the interests of justice may require.

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