

**IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

KATHRYN M. RICHMOND,
a married woman as to her separate estate,

Plaintiff,

vs.

TERESSA HERNANDEZ, a married
woman,

Defendant.

NO. 16-2-21723-1 SEA

ANSWER AND AFFIRMATIVE
DEFENSES TO COMPLAINT FOR
UNLAWFUL DETAINER *AND*
COUNTERCLAIM FOR UNLAWFUL
ENTRY

COMES NOW the defendant TERESSA HERNANDEZ ("Defendant" or "Hernandez"), and hereby answers and provides affirmative defenses and counterclaims to plaintiff's complaint filed September 9, 2016 and served Sunday, September 11, 2016:

Under Civil Rule (CR) 8, Hernandez generally denies each and every allegation of the complaint not expressly admitted. Hernandez also expressly denies some allegations without affecting their general denial of other allegations and will not respond to allegations that present purely legal conclusions or arguments. If an answer to any such allegation is required, defendant denies each such allegation that is not expressly admitted. To the extent that Hernandez incorporates plaintiffs' headings in this Answer, she does so for organizational purposes only and does not admit any of the allegations contained in plaintiff's pleadings.

In addition to the above general responses, Hernandez offers the following responses to the specific allegations set forth in each numbered paragraph of plaintiff's complaint.

I. PLAINTIFF

1. In answer to paragraph 1, defendant ADMITS plaintiff is a married woman, but lacks sufficient knowledge to admit or deny the remaining allegations and, therefore, DENIES the

same. Insofar as any of this paragraph sets forth legal conclusions or argument, no response is required.

2. Defendant lacks sufficient knowledge to admit or deny paragraph 2, and, therefore, DENIES the same. Insofar as any of this paragraph sets forth legal conclusions or argument, no response is required.

II. DEFENDANT

In answer to section 2, defendant ADMITS her name is Teressa Hernandez, but DENIES the remaining allegations. Insofar as any of this paragraph sets forth legal conclusions or argument, no response is required.

III. LETTING OF PREMISES

In answer to section 3, defendant ADMITS that plaintiff and Hernandez entered into a lease agreement for lease of the Premises and that Hernandez took early possession of the Premises, but DENIES the remaining allegations. Insofar as any of this paragraph sets forth legal conclusions or argument, no response is required.

IV. THREE AND TEN DAY NOTICE

1. In answer to section 4, paragraph 1, Defendant ADMITS a check in the amount of \$1,350 was returned to plaintiff, ADMITS a Three Day Notice to Pay Rent or Surrender Premises, Three Day Notice to Surrender Premises for Permitting and Committing Waste and Nuisance was served, and ADMITS the notice indicated payment of \$1412 was demanded by plaintiff, but DENIES the remaining allegations. Insofar as any of this paragraph sets forth legal conclusions or argument, no response is required.

2. In answer to section 4, paragraph 2, defendant ADMITS a Ten Day Notice to Comply with Conditions of Lease was served and that Hernandez remains in possession of the Premises,

but DENIES the remaining allegations. Insofar as any of this paragraph sets forth legal conclusions or argument, no response is required.

V. FAILURE TO COMPLY WITH NOTICE

In answer to section 5, paragraphs 1 and 2, Hernandez ADMITS she has not surrendered possession of the Premises, but DENIES the remaining allegations. Insofar as any of this paragraph sets forth legal conclusions or argument, no response is required.

VI. DEFENDANT IN UNLAWFUL DETAINER

Defendant DENIES the allegations contained in paragraph 6 and that plaintiff is entitled to any of the relief requested in this paragraph.

VII. ATTORNEY'S FEES

Defendant DENIES the allegations contained in paragraph 7 sections A – F and that plaintiff is entitled to any of the relief requested in this paragraph/sections.

AFFIRMATIVE DEFENSES

- A. Plaintiff has failed to state a claim upon which relief can be granted.
- B. The lease in this dispute post-dates the three day and ten day notices served on Hernandez.
- C. The lease for the Premises indicates Hernandez does not owe the amount described by plaintiff in this lawsuit as the amount of monthly rent.
- D. Plaintiff has breached her duty as a landlord with regard to a landlord's legal and contractual obligations.
- E. Plaintiff has breached the lease conditions of the Premises by having a family member and an individual dressed in uniform enter the premises without providing notice or obtaining consent from Hernandez.

F. Plaintiff knowingly and intentionally indicated falsities in the ten day notice served, of which two of four directly conflict with the lease involved in this matter.

G. Plaintiff premeditated and executed criminal unlawful harassment of Hernandez and her child, utilizing persons unknown to the tenants, in an attempt to harass, intimidate, threaten, and ultimately force the family out of the dwelling within days of their initial tenancy.

H. Conditions precedent: Hernandez reasonably expected plaintiff to refrain from unlawful harassment/entry, especially after regular and unrestricted communications with plaintiff.

I. Plaintiff allowed the submission of the Declaration of Karyn Ann Geary re: Waste and Nuisance, knowing the majority of the claims and allegations made therein were completely false on their face. This declaration was made under sworn oath and contains falsities that can be proven by witnesses present during the time Geary references in the declaration provided and by video footage taken by Hernandez and her fourteen-and-a-half year old daughter.

J. Hernandez reserves the right to supplement these affirmative defenses as new defenses that may be revealed during trial.

10-DAY NOTICE TO COMPLY WITH CONDITIONS OF LEASE

The 10-day notice to comply (See plaintiff's exhibit to complaint, Ex. F3) contains many statements that conflict with the lease that is part of the subject matter of this dispute and/or facts of this dispute, as follows:

(a) "The Lease prohibits other than one cat..." The Lease indicates no pets. Pets are defined in King County, Washington by King County Code 11.04.020(T) as follows: "'Pet"

means a dog or a cat or any other animal required to be licensed by this chapter. "Dog," "cat" and "pet" may be used interchangeably." According to King County Code, caged and flightless birds, specifically parrots, are not recognized as a "pet" by King County Code and are therefore not in violation of the lease referenced herein.

(b) "[P]rohibits smoking..." Hernandez does not regularly smoke cigarettes andb she has not smoked in or around the premises.

(c) "[A]llows for only one occupant..." Defendant is the only adult occupant of this condominium unit.

(d) "[R]equired maintenance of the premises." Defendant has not failed to maintain the Premises in any way.

DECLARATION OF KARYN ANN GEARY RE: WASTE AND NUISANCE

Geary submitted a sworn declaration signed September 8, 2016 that contains statements that are knowingly false, fabricated and/or slanderous with the ill-intent of causing Hernandez, her daughter and the rest of her household to become homeless, and to permanently slander Hernandez' name in the City of Seattle and surrounding areas for the foreseeable future (it is nearly impossible to have an eviction on your record and find someone to rent to you in Seattle City Limits. In fact, it is nearly impossible, if not impossible altogether, to have a credit score below 670 and find an acceptable residence to lease, and this is without an eviction suit (dismissed or otherwise) on a person's record. In particular, the below paragraphs of Geary's declaration are identified and the issues contained therein are described and addressed.

After reading the entirety of Geary's declaration, a document laden with exaggeration, over-dramatization and blatant untruths, one questions Geary's ability to serve as a competent witness herein as so declared by Geary in paragraph 2 of stated declaration.

Hernandez asserts with complete confidence that paragraph 4 of Geary's declaration is fabricated. This paragraph states: "She [plaintiff] was concerned about her tenant [Hernandez] and asked me to stop by to inspect as I lived in the area." The last communication between Hernandez and plaintiff occurred that same day around 2:00 p.m., when plaintiff sent Hernandez a text demanding: "Tess, please respond to my email immediately!" to which Hernandez replied, "Okay." and Hernandez had been communicating almost daily the entire week prior to the unlawful entry made by Geary and Zavala. Plaintiff had apparently been referencing her e-mail regarding Hernandez' small, caged conures and re-visiting the non-sufficient funds of the check dated August 12 that Hernandez had provided to plaintiff under her persistent insistence of an early move-in.

Paragraph 6 of Geary's declaration is completely false. There was not nor has there been since any overflowing garbage, excessive and/or damaging bird feces, rotten food, smoked/used cigarettes or unreasonable and/or out of control "animal smells" throughout the unit.

7. Paragraph 7 of Geary's declaration is completely false. Hernandez owns two very small birds called Green Cheek Conures that are only slightly larger than the tiny parakeets seen at pet stores. Their bodies are about the size of the closed fist on an average, healthy woman. Neither bird can fly. One bird is disabled from a previous injury and the other had his wings clipped at a very young age, denying the opportunity for him to learn how to fly correctly.

8. Paragraph 8 of Geary's declaration contains fabricated fact. There are no stains on the carpet because of the mattress referenced by Geary (See photographs attached hereto). The referenced mattress is stained due to many years of regular use and from being transported from Alaska to the State of Washington by motor vehicles and a barge through the Bering Sea.

9. Paragraph 9 contains fabricated declarations by Geary. There were and are not bags of garbage "everywhere," or anywhere aside from appropriate receptacles. At the time, there were garbage bags filled with clean household and personal items. Like many people, when defendant and her minor child were relocating, they hurriedly placed belongings into whatever type of container or bag they could, and on this occasion, her family utilized many clean and unused garbage bags to transport miscellaneous items. At the time of Geary's intrusion, Hernandez and her daughter had been physically residing at the Premises only eight days.

10. Paragraph 10 contains false statements made by Geary. There were and are not cigarettes and drug paraphernalia "scattered throughout the apartment." There may have been an open or unopened pack of unsmoked cigarettes in plain sight, however, there were no cigarettes present that had been smoked in any way, nor has there ever been any drug paraphernalia.

11. Paragraph 11 is, for the most part, false, aside from the minor (Hernandez' daughter) "appear[ing] frightened" and that Hernandez "never got up" during the intrusion of Geary and Zavala. Hernandez' daughter has been attending therapy since the time of the intrusion and at times becomes increasingly anxious and depressed when revisiting the event.

12. To the extent of Hernandez' knowledge, paragraph 12 is false. The condo was and remains sanitary, damage-free and habitable.

WHEREFORE, defendant requests an order that

1. Dismisses the action against her with prejudice;
2. Denies plaintiff's requested relief;
3. Grants defendant her costs and reasonable attorneys' fees herein;
4. Grants the terms of the original lease drafted by plaintiff and effective beginning September 1, 2016, with the following exceptions, if applicable:

a. If this Court finds that, although Hernandez' domesticated birds are not considered "pets" by legal definition in King County, State of Washington, they should be treated as such, the lease referenced herein shall allow for possession of the same;

b. For any monetary amount that the Court deems due and owing to plaintiff for lease of the Premises, any and all fees and charges are hereby waived on said amount(s);

5. Grants defendant an order for limited dissemination.

DATED this 10th day of October, 2016.

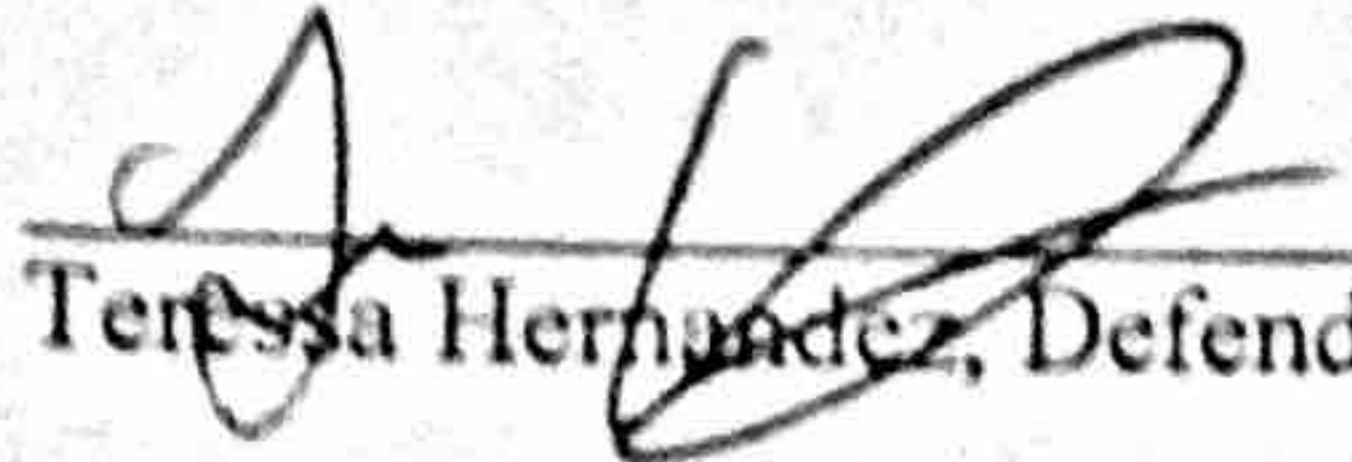


Teresa Hernandez, Defendant
3601 24th Avenue West, Unit 304
Seattle, WA 98199
(206) 377-9669

CERTIFICATE OF SERVICE

On the 12th day of October, 2016, I faxed a copy of the foregoing Answer, Affirmative Defenses, and Set-Offs to James Bittner, Plaintiff's attorney, at the following fax number: (206) 682-1197

DATED this 12th day of October, 2016 at Seattle, Washington.


Teresa Hernandez, Defendant