

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FOURTH MUNICIPAL DISTRICT**

JOSE E. ZAVALA-PADILLA

Plaintiff,

v.

ELISA ALVAREZ and MARGARITO ALVAREZ

Defendants.

Case No. 20214004060

COMPLAINT

By and through his attorneys, Mexican American Legal Defense & Educational Fund (MALDEF), Plaintiff Jose E. Zavala-Padilla states as follows:

I. INTRODUCTION

1. This is an action to enforce the Immigrant Tenant Protection Act (“ITPA”), 765 ILCS 755/10.

2. 765 ILCS 755/10(f)(1) provides in pertinent part that “a landlord shall not, unless required by law or court order, threaten to disclose or actually disclose information regarding or relating the immigration or citizenship status of a tenant to any person, entity, or any immigration or law enforcement agency with the intent of harassing or intimidating the tenant, retaliating against the tenant for exercising his or her rights, or influencing the tenant to surrender possession.”

3. The ITPA ensures that all tenants have meaningful access to housing regardless of their immigration status, and prevents landlords from weaponizing a tenant's immigration status in a landlord-tenant dispute.

4. In violation of the ITPA, landlords Elisa and Margarito Alvarez ("Defendants") threatened to call Immigration and Customs Enforcement ("ICE") on Plaintiff Jose E. Zavala-Padilla over a \$100 rent dispute in violation of the ITPA.

5. Defendants then reported Plaintiff Jose E. Zavala-Padilla to ICE over a \$100 rent dispute in violation of the ITPA.

6. Defendants wrongfully evicted Plaintiff Jose E. Zavala-Padilla, converted his personal property, and retaliated against him for exercising his rights as a tenant. In this action, Plaintiff Jose E. Zavala-Padilla seeks actual, consequential, and punitive damages as well as attorney's fees and costs.

II. JURISDICTION AND VENUE

7. This Court has personal jurisdiction over Defendants because they reside in Illinois, own real estate in Illinois, and made a contract substantially connected with Illinois.

8. Venue is proper pursuant to 735 ILCS 5/2-10(1) and (2) because Defendants are residents of Cook County, Illinois, and the events giving rise to Plaintiff Jose E. Zavala-Padilla's claims took place in Cook County, Illinois.

III. PARTIES

9. Plaintiff Jose E. Zavala-Padilla is a resident of Cook County, IL, and was the tenant at 1222 South 48th Court, Cicero, IL ("Premises"), from on or about November 9, 2019 until on or about March 9, 2020.

10. Defendant Elisa Alvarez is a resident of Cook County, IL, owns the premises, and was Plaintiff Jose E. Zavala-Padilla's landlord from on or about November 9, 2019 until on or about March 9, 2020.

11. Defendant Margarito Alvarez is a resident of Cook County, IL, owns the premises and was Plaintiff Jose E. Zavala-Padilla's landlord from on or about November 9, 2019 until on or about March 9, 2020.

IV. FACTS

12. On or about November 9, 2019, Plaintiff Jose E. Zavala-Padilla met Defendant Elisa Alvarez and verbally agreed to rent a basement unit at 1222 South 48th Court, Cicero, Illinois, for \$600 per month. The parties agreed that Plaintiff Jose E. Zavala-Padilla would pay rent in cash to Defendant Elisa Alvarez on the 19th day of each month for the upcoming month. The basement is divided into two separate units, one unit in the front and one unit in the back, each with separate entrances. The back unit had two tenants, Irma and Chuy. Plaintiff Jose E. Zavala-Padilla leased the front unit. Plaintiff Jose E. Zavala-Padilla's unit had a bathroom, small kitchen area, a bedroom, and a living room. On or about November 9, 2019, Plaintiff Jose E. Zavala-Padilla paid Defendants \$600 to cover the month of November, as well as a \$600 security deposit. A few days later, Plaintiff Jose E. Zavala-Padilla moved into the unit.

13. When Plaintiff Jose E. Zavala-Padilla took possession of the unit on or about the middle of November 2019, the unit's windows had no glass and were boarded over with wood. The floor tiles were cracked and covered in paint and dirt. The unit did not have door handles. Defendants provided Plaintiff Jose E. Zavala-Padilla with door handles, and Plaintiff Jose E. Zavala-Padilla installed them at no cost to Defendants. Within days of moving in, Plaintiff Jose

E. Zavala-Padilla observed that the unit was infested with cockroaches and rats. Plaintiff Jose E. Zavala-Padilla also noticed that the bathroom sink was leaking and asked Defendants to fix it. Defendant Elisa Alvarez told him that Defendants could not afford to fix the sink but would fix it when they had the money.

14. On or around February 16, 2020, Plaintiff Jose E. Zavala-Padilla told Defendant Elisa Alvarez that the sink was still leaking and damaging the bathroom floor. The bathroom sink leak was so severe the premises were unfit for its intended daily use.

15. He asked her to fix it, and she refused. Plaintiff Jose E. Zavala-Padilla offered to fix the sink and deduct the cost from the rent. Defendant Elisa Alvarez did not agree to this arrangement but said that he was free to fix the sink at his own cost. A few days later, Plaintiff Jose E. Zavala-Padilla purchased a new sink with a cabinet and replaced the old sink, which was damaged beyond repair. Plaintiff Jose E. Zavala-Padilla planned to deduct the repair costs from the March 2020 rent.

16. On or about February 19, 2020, Plaintiff Jose E. Zavala-Padilla asked Defendants for a week extension to pay March 2020 rent. Plaintiff Jose E. Zavala-Padilla explained that he had been sick and unable to work and would need more time to get the money together. Defendants agreed to the extension.

17. On or about February 21, 2020, Defendant Elisa Alvarez came to Plaintiff Jose E. Zavala-Padilla's apartment to collect the March 2020 rent. Plaintiff Jose E. Zavala-Padilla paid \$500 for March 2020 rent, deducting \$100 for the sink repairs. Defendant Elisa Alvarez became upset and swore at him. Plaintiff Jose E. Zavala-Padilla asked Defendant Elisa to give him two weeks to move out. Defendant Elisa did not respond and turned around and left.

18. On or about February 22, 2020, Defendant Elisa Alvarez returned with Defendant Margarito Alvarez demanding the March 2020 rent balance of \$100. Plaintiff Jose E. Zavala-Padilla explained he withheld \$100 because he had fixed the sink at his own cost. Plaintiff Jose E. Zavala-Padilla again asked Defendants if he could have two weeks to move out, but Defendants refused. Instead, Defendants yelled and swore at Plaintiff Jose E. Zavala-Padilla demanding he pay the remaining rent. As Defendants were leaving Plaintiff Jose E. Zavala-Padilla heard Defendant Margarito Alvarez tell Defendant Elisa Alvarez to call ICE on Plaintiff Jose E. Zavala-Padilla for not paying the full rent amount.

19. Later that same day, Defendant Elisa Alvarez was waiting for Plaintiff Jose E. Zavala-Padilla at Brasas, the restaurant where Plaintiff Jose E. Zavala-Padilla worked. When he arrived, Plaintiff Jose E. Zavala-Padilla's coworkers informed him that his landlord was the looking for him and was angry about their dispute over rent. His coworkers informed him that Defendant Elisa Alvarez had come into the restaurant upset about how Plaintiff Jose E. Zavala-Padilla owed her rent, and both the restaurant owners and his coworkers heard Defendant Elisa Alvarez because she spoke in a loud voice. Defendant Elisa Alvarez demanded that Plaintiff Jose E. Zavala pay the \$100 in rent that Alvarezes claimed were due. Plaintiff Jose E. Zavala-Padilla refused to pay her, reminding her that he deducted a \$100 from the rent for repairs. Defendant Elisa Alvarez insulted Plaintiff Jose E. Zavala-Padilla in front of his coworkers and left. Plaintiff Jose E. Zavala-Padilla had never disclosed any information regarding his relationship with his landlord or the rent dispute to his co-workers.

20. Upon returning home from work on or about February 23, 2020, Plaintiff Jose E. Zavala-Padilla saw that Defendants had trespassed, removed his possessions from the apartment,

locked him out, and effectively evicted him from the premises. All his possessions were out on the street, and Defendants had changed the locks.

21. Defendants did not serve Plaintiff Jose E. Zavala-Padilla with a notice of eviction, send a notice of eviction by certified mail, or post a notice of eviction on the premises before the forcible entry took place, in violation of Illinois eviction laws, 735 ILCS 5/9-211. There is no record of Defendant Elisa Alvarez filing an eviction proceeding against Plaintiff Jose E. Zavala-Padilla.

22. That same day after work, Plaintiff Jose E. Zavala-Padilla went to the Cicero Police Department to file a report, where he met Officer Oscar Covarrubias.¹ Officer Covarrubias told Plaintiff Jose E. Zavala-Padilla that he had a right to enter his home and helped Plaintiff Jose E. Zavala-Padilla reenter his apartment.

23. Later that night on or about February 23, 2020, Defendants called the Cicero Police Department and falsely claimed that a homeless man had broken into the basement apartment where Plaintiff Jose E. Zavala-Padilla resided.

24. On or about February 24, 2020, two Cicero police officers came to check on the status of Plaintiff Jose E. Zavala-Padilla's dispute with Defendants. The Cicero police officers asked how long he needed to move out. Plaintiff Jose E. Zavala-Padilla explained to the officers that he had asked Defendants for two weeks to move out.

25. On or about February 25, 2020, Plaintiff Jose E. Zavala-Padilla heard a prolonged knocking on his door. He opened the door, and unidentified individuals asked him if he was Jose E. Zavala-Padilla. He confirmed that he was, and they handcuffed and detained Plaintiff Jose E. Zavala-Padilla.

¹ Cicero Police Dep't, Incident Report 202000014661 (Feb. 23, 2020).

26. The individuals transported Plaintiff Jose E. Zavala-Padilla to a nearby facility (the location of which Plaintiff Jose E. Zavala-Padilla could not determine). Upon being processed at the facility, an Immigration and Customs Enforcement (ICE) agent confirmed to Plaintiff Jose E. Zavala-Padilla that he was being held at an ICE detention center, and that it was Defendants who had reported him to ICE.

27. On or around February 26, 2020, ICE returned to the premises and detained Irma, the tenant in the neighboring basement unit. Irma called Plaintiff's sister, Maricarmen Zavala, informed Ms. Zavala that ICE had detained her brother, and then asked Ms. Zavala to contact Irma's family. Soon afterward, Ms. Zavala called Plaintiff's brother, Juan Zavala, and asked if he heard from Plaintiff Jose E. Zavala-Padilla. Juan Zavala informed her that ICE detained Plaintiff Jose E. Zavala-Padilla and was holding him at McHenry County Adult Correctional Facility.

28. That same day, Ms. Zavala went to Plaintiff Jose E. Zavala-Padilla's apartment to gather his belongings. The first-floor tenant told Ms. Zavala that she had seen ICE take Plaintiff Jose E. Zavala-Padilla on or about February 25, 2020. Ms. Zavala attempted to claim her brother's belongings but could not enter to retrieve them because Defendants had changed the locks.

29. On or around February 27, 2020, Ms. Zavala returned to the premises and spoke with the first-floor tenant. The tenant was reluctant to help Ms. Zavala because Defendants, her landlords, had forbidden the tenant from speaking to any member of Plaintiff Jose E. Zavala-Padilla's family, but the tenant did provide two phone numbers to contact Defendants.

30. Ms. Zavala called Defendant Elisa Alvarez and asked her why she reported Plaintiff Jose E. Zavala-Padilla to ICE. Defendant Elisa Alvarez responded that she does not like undocumented immigrants, swore at Ms. Zavala, and hung up.

31. On or around February 28, 2020, Plaintiff Jose E. Zavala-Padilla's brother, Juan Zavala, called Maricarmen Zavala and told her that he saw Plaintiff Jose E. Zavala-Padilla's possessions discarded in the alley next to the premises. Juan Zavala knew they were his brother's possessions because he recognized a toy belonging to Plaintiff Jose E. Zavala-Padilla's son in the alley. Maricarmen Zavala arrived at the premises and found Plaintiff Jose E. Zavala-Padilla's possessions in trash bags next to the apartment building, mixed among debris from a nearby construction site.

32. Maricarmen and Juan Zavala recovered some of Plaintiff Jose E. Zavala-Padilla's possessions, including the box that contained his television (no television was inside), broken toys belonging to Plaintiff Jose E. Zavala-Padilla's son, and some clothes and dishes. They were not able to recover the following items: the television, Plaintiff Jose E. Zavala-Padilla's papers and identification cards, his furniture, his wallet, kitchen supplies, the bulk of Plaintiff's clothes, and money that he had left in his apartment when ICE detained him.

33. On February 28, 2020, Ms. Zavala went to the Cicero police station to obtain the police reports regarding Defendants' disputes with her brother Plaintiff Jose E. Zavala-Padilla. Officer Covarrubias told Ms. Zavala that he was the officer involved with the incidents and that he had responded to Defendants' subsequent calls to the Cicero Police Department against Plaintiff Jose E. Zavala-Padilla.

34. Officer Covarrubias confirmed that Defendants reported Plaintiff Jose E. Zavala-Padilla to ICE and had reported other tenants to ICE in the past. Officer Covarrubias then

recommended that Plaintiff Jose E. Zavala-Padilla, upon his release from ICE custody, request police reports dating back to 2019 concerning Defendants.

35. On March 2, 2020, demonstrators assembled in front of the premises to protest Defendants' reporting Plaintiff Jose E. Zavala-Padilla and Irma to ICE. Reporters from Univision, community activists, and staff from State Representative Lisa Hernandez's office were all present. During the demonstration, one of the first-floor tenants emerged from his unit and told Maricarmen Zavala that Defendant Elisa Alvarez had reported basement tenants to ICE in 2019.

36. On March 24, 2020, Plaintiff Jose E. Zavala-Padilla bonded out of immigration detention at McHenry Adult Correctional Facility. Afterwards, Plaintiff Jose E. Zavala-Padilla had a difficult time finding a safe and stable home. Plaintiff Jose E. Zavala-Padilla had lost his job, apartment and belongings due to his detention by ICE. For several months, Plaintiff Jose E. Zavala-Padilla was homeless and sought shelter at different family and friends' homes.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION

IMMIGRANT TENANT PROTECTION ACT

37. Plaintiff Jose Zavala-Padilla repeats and realleges the allegations contained in paragraphs 12 through 36, inclusive, as if fully restated herein.

38. At all relevant times Defendants were Plaintiff Jose E. Zavala-Padilla's landlords.

39. Defendants threatened to report Plaintiff Jose E. Zavala-Padilla to ICE with the intent to harass, intimidate, and induce him to surrender possession of the premises.

40. Defendants reported Plaintiff Jose E. Zavala-Padilla to ICE with the intent to harass, intimidate, and induce him to surrender possession of the premises.

41. Defendants' unlawful threat to report Plaintiff Jose E. Zavala-Padilla to ICE and Defendants' actual reporting of Plaintiff Jose E. Zavala-Padilla to ICE was in contravention of the Immigrant Tenant Protection Act, P.A. 101-439 (2019), 765 ILCS 755/10.

SECOND CAUSE OF ACTION

WRONGFUL EVICTION

42. Plaintiff Jose E. Zavala-Padilla repeats and realleges the allegations contained in paragraphs 12 through 36, inclusive, as if fully restated herein.

43. At all relevant times, Plaintiff Jose E. Zavala-Padilla was entitled to possession, use, control, and enjoyment of the Premises.

44. Defendants wrongfully and unlawfully evicted Plaintiff Jose E. Zavala-Padilla from the premises on or about February 23, 2020, and on or about February 25, 2020.

45. "Under the Illinois Forcible Entry and Detainer Act, a tenant cannot be dispossessed absent a judgment for eviction." *Soldal v. Cook County, Illinois*, 506 U.S. 56, 58 (1992).

46. Defendant Elisa Alvarez and Margarito Alvarez's wrongful and unlawful eviction of Plaintiff Jose E. Zavala-Padilla was without notice or due process of law, in violation of 735 ILCS 5/9-101, et seq.

THIRD CAUSE OF ACTION

TRESPASS

47. Plaintiff Jose E. Zavala-Padilla repeats and realleges the allegations contained in paragraphs 12 through 36, inclusive, as if fully restated herein.

48. At all relevant times, Plaintiff Jose E. Zavala-Padilla was entitled to possession, use, control, and enjoyment of the Premises.

49. Defendant Elisa Alvarez entered Plaintiff Jose E. Zavala-Padilla's apartment without his permission and changed the locks, depriving him of access to the apartment.

50. Defendant Elisa Alvarez removed all of Plaintiff Jose E. Zavala-Padilla's personal property and placed it out on the street.

51. After Plaintiff Jose E. Zavala-Padilla was detained by ICE, Defendant Elisa Alvarez again entered the apartment without permission, removed all of Plaintiff Jose E. Zavala-Padilla's personal property and placed it out in the alley in the garbage cans. Defendant Elisa Alvarez' placement of Plaintiff Jose E. Zavala-Padilla's property in the alley caused some of the items to be missing, broken, and damaged. Plaintiff Jose E. Zavala-Padilla's missing items include furniture, electronics, clothing, money, and personal papers and identification records.

FOURTH CAUSE OF ACTION

CONVERSION

52. Plaintiff Jose E. Zavala-Padilla repeats and realleges the allegations contained in paragraphs 12 through 36, inclusive, as if fully restated herein.

53. At all relevant times, Plaintiff Jose E. Zavala-Padilla's right in his personal property was absolute and unconditional.

54. Defendants, without Plaintiff Jose E. Zavala-Padilla's authorization, wrongly assumed control, dominion, or ownership of Plaintiff Jose E. Zavala-Padilla's personal property and disposed of it.

55. Plaintiff Jose E. Zavala-Padilla demanded possession of his personal property and assets from Defendants.

56. Defendants failed to return Plaintiff Jose E. Zavala-Padilla's personal property and assets.

57. Defendants' failures to return Plaintiff Jose E. Zavala-Padilla's personal property was willful or done with such gross negligence as to indicate wanton disregard of Plaintiff Jose E. Zavala-Padilla's rights in his personal property.

FIFTH CAUSE OF ACTION

PUBLIC DISCLOSURE OF PRIVATE FACT

58. Plaintiff Jose E. Zavala-Padilla repeats and realleges allegations contained in paragraphs 12 through 36, inclusive, as if fully restated herein.

59. Plaintiff Jose E. Zavala-Padilla made the repairs on the premises in good faith. Plaintiff Jose E. Zavala-Padilla deducted the cost of the repairs from his rent because Defendant Elisa Alvarez failed to fix the damaged property.

60. Plaintiff Jose E. Zavala-Padilla never disclosed his rent status or his financial relationship with Defendants to any, co-workers at his place of employment, making his rent and financial status a private fact.

61. Defendant Elisa Alvarez disclosure of Plaintiff Jose E. Zavala-Padilla rental and financial status to his co-workers was embarrassing and interfered with Plaintiff Jose E. Zavala-Padilla's right to privacy.

62. In Illinois, disclosing facts of a personal nature to fellow employees that were embarrassing and interfere with a person's right to privacy has been found to be highly offensive to the reasonable person.

63. Defendants committed the tort of public disclosure of private fact when Elisa Alvarez publicly disclosed Plaintiff Jose E. Zavala-Padilla's rental and financial status, a private fact, at his place of work and in front of his co-workers that interfered with Plaintiff Jose E. Zavala-Padilla's right to privacy.

SIXTH CAUSE OF ACTION

BREACH OF HABITABILITY

64. Plaintiff Jose E. Zavala-Padilla repeats and realleges allegations contained in paragraphs 12 through 36, inclusive, as if fully restated herein.

65. Every residential lease carries with it a warranty of habitability.

66. Defendants failed to maintain the premises in compliance with all applicable provisions of the municipal code and failed to promptly make any and all repairs necessary to fulfill their obligation as required by Cicero Municipal Code §§ 46-474 and 46-475.

67. Defendant Elisa Alvarez refused to repair the leaking bathroom sink, cabinet and floor. The apartment unit's windows had no glass and were boarded over with wood. The floor tiles were cracked and covered in paint and dirt. The apartment unit did not have door handles on any doors. The unit was infested with cockroaches and rats.

68. Plaintiff suffered through the hazardous conditions of the apartment.

69. Plaintiff Jose E. Zavala-Padilla paid for the supplies to repair the sink. Plaintiff Jose E. Zavala-Padilla was never reimbursed.

70. Plaintiff Jose E. Zavala-Padilla repaired the sink and asked Defendant Elisa Alvarez to reimburse him for the cost of the repair. Defendant Elisa Alvarez failed to reimburse him for the costs and instead threatened to report and reported Plaintiff Jose E. Zavala-Padilla to ICE.

71. The leak in the sink causing the damage to the sink cabinet and floor, as well as, the rodent infestation, boarded up windows and cracks in the floor tile were of such a substantial nature as to render the premises unsafe and unsanitary. At all relevant times, Defendants knew about said defects and refused to correct them.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

1. A civil penalty of \$2,000 for each violation of the ITPA as provided for by 765 ILCS 755/15;
2. Judgment against Defendants for actual and consequential damages, including an amount that reasonably reflects the market value of Plaintiff Jose E. Zavala-Padilla's personal property on the date of conversion, plus legal interest;
3. Damages for wrongful eviction, and breach of habitability;
4. Judgment against Defendants for punitive damages for public disclosure of private facts and trespass;
5. Costs and reasonable attorney's fees; and
6. Such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff Jose E. Zavala-Padilla hereby demands trial by jury for any matters triable to a jury.

Dated: September 3, 2021

Respectfully submitted,

s/ Susana Sandoval Vargas

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