

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION**

Maria Maltos Escutia and Gabriel Valdez	)	
Garcia,	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 2022 L 004799
	)	
Marco Antonio Contreras and Denise	)	
Contreras,	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter coming for trial on damages only, pursuant to entry of summary judgment in favor of the plaintiffs and an order granting plaintiffs’ non-suit/voluntary dismissal of the remaining claim, the parties and counsel present in open court and the court hearing sworn testimony, the court finds and orders as follows:

Plaintiffs Maria Maltos Escutia (“Maria”) and Gabriel Valdez Garcia (“Gabriel”) filed claims against the defendants Marco Antonio Contreras (“Marco”) and Denise Contreras (“Denise”) seeking relief for claims under conversion and the Illinois Immigrant Tenant Protection Act (“Act”), 765 ILCS 755/1, et seq. At summary judgment, the court found liability in favor of both plaintiffs on the conversion counts, against both Marco and Denise. On the counts under the Act, the court found liability in favor of both plaintiffs against Marco only, but a question of fact existed as to Denise. Maria and Gabriel filed a motion to non-suit their claims under the Act against Denise. The defendants did not object, and a trial was held as to damages only. The claims arose out of a tenancy whereby Maria and Gabriel leased the basement unit in a building located at 8533 S. Kostner Ave., Chicago, IL, owned by Marco and Denise. In brief summary, at the trial, the plaintiffs described the items located in the attic of the apartment to which they were denied access, and the harm they claimed they suffered as a result of the threats under the Act. In addition to the loss of items in the attic, the plaintiffs asked for \$40,000.00 each in actual damages, statutory damages, punitive damages, costs and attorney’s fees.

Conversion Damages:

Both plaintiffs testified that their property which was not recovered from the attic included a baby bath and bassinet, however no other items were identified with any certainty other than generally, baby things. There was no evidence as to the nature and description of any other items. Plaintiffs had no receipts for the items or replacement of them. Plaintiffs, in argument, admitted the nominal value of these items, but testified that the items had high sentimental value and were items they wanted to use with future children and to pass down to them. “The concept of actual value to the owner may include some element of sentimental value in order to avoid limiting the plaintiff to merely nominal damages.” *Jankoski v. Preiser Animal Hosp., Ltd.*, 157 Ill. App. 3d 818, 821 (1st Dist. 1987). Plaintiffs also asked for prejudgment interest, pursuant to 735 ILCS 5/2-1303.

Defendants testified that the items are still in the attic, and that after plaintiffs moved out, Gabriel and Maria did not give defendants a new address and never further attempted to get the belongings. Based upon all the evidence the court awards the plaintiffs \$50.00 against the defendants for conversion, plus costs. As for pre-judgment interest the court disagrees with plaintiffs that it is due and owing on the conversion claim, pursuant to section 2-1303 of the Illinois Code of Civil Procedure, so that claim for damages is denied.

Damages under the Act:

The Act provides in relevant part:

Sec. 15. Remedies.

(a) If a landlord engages in prohibited conduct described in subsection (f) of Section 10 against a tenant, the tenant may bring a civil action to seek any one or more of the following remedies:

- (1) actual damages, as reasonably determined by the court, for injury or loss suffered;
- (2) a civil penalty in an amount not to exceed \$2,000 for each violation, payable to the tenant;
- (3) reasonable attorney's fees and court costs; and
- (4) other equitable relief as the court may deem appropriate and just. 765 ILCS 755/15.

First, the court agrees with the plaintiffs that there were two violations of the act and therefore the plaintiffs are entitled to \$4,000.00 against the defendant Marco under section (a)(2) of the Act. Further, based upon all the evidence, the court finds Gabriel's damages are \$40,000.00, and that Maria's actual damages are \$40,000.00. As for punitive damages, generally they are not allowed in Illinois unless pursuant to statute or when torts are committed with fraud, actual malice, deliberate violence or oppression, or when the defendant acts willfully, or with such gross negligence as to indicate a wanton disregard of the rights of others. *Barton v. Chicago and North Western Transportation Co.*, 325 Ill.App.3d 1005 (1st Dist. 2001). The court has consulted Illinois Pattern Jury Instruction 35.01 for guidance, which states in relevant portion:

If you find that [(Defendant's name)] conduct was [fraudulent] [intentional] [willful and wanton] and proximately caused [injury] [damage] to the plaintiff, and if you believe that justice and the public good require it, you may award an amount of money which will punish [(Defendant's name)] and discourage [it/him/her] and others from similar conduct. In arriving at your decision as to the amount of punitive damages, you should consider the following three questions. The first question is the most important to determine the amount of punitive damages: 1. How reprehensible was [(defendant's name)] conduct? On this subject, you should consider the following: a) The facts and circumstances of defendant's conduct; b) The [financial] vulnerability of the plaintiff; c) The duration of the misconduct; d) The frequency of defendant's misconduct; e) Whether the harm was physical as opposed to economic; f) Whether defendant tried to conceal the misconduct; g) [other] 2. What actual and potential harm did defendant's conduct cause to the plaintiff in this case? 3. What amount of money is necessary to punish defendant and discourage defendant and others

from future wrongful conduct [in light of defendant's financial condition]? [In assessing the amount of punitive damages, you may not consider defendant's similar conduct in jurisdictions where such conduct was lawful when it was committed.] The amount of punitive damages must be reasonable [and in proportion to the actual and potential harm suffered by the plaintiff.] Illinois Pattern Instruction 35.01.

Here, the court does not necessarily agree with the plaintiffs that the statute provides for an award of punitive damages, as they are not considered actual damages or equitable relief. Even if they were available, the court finds that any award would be zero and the plaintiffs' request for punitive damages is denied. Plaintiffs are entitled to their costs and reasonable attorney's fees.

Wherefore judgment is entered:

- a) in the amount of \$50.00 in favor of both plaintiffs and against both defendants;
- b) in the amount of \$4,000 in favor of both plaintiffs and against defendant Marco;
- b) in the amount of \$40,000.00 in favor of plaintiff Gabriel and against defendant Marco;
- c) in the amount of \$40,000.00 in favor of plaintiff Maria and against defendant Marco;
- d) costs in favor of both plaintiffs and against both defendants, and
- e) reasonable attorney's fees in favor of both plaintiffs and against the defendant Marco; the plaintiffs may submit/file a petition for their attorney's fees and costs on or before March 21, 2025; defendants may submit/file a response to that petition on or before April 18, 2025; and plaintiffs may reply on or before May 2, 2025; plaintiffs shall submit courtesy copies of all materials to the court electronically by email to [patricia.wisniewski@cookcountyl.gov](mailto:patricia.wisniewski@cookcountyl.gov) by 10:00am on May 5, 2025.
- f) The status of ruling date of April 9, 2025 is stricken.
- g) The matter is set for hearing on plaintiffs' fee petition to May 28, 2025 at 9:30 a.m. in Room 2004 of the Daley Center, Chicago, IL 60602. The parties may appear in person or remotely. Zoom Meeting ID: 999 8063 6139; Zoom Password: 645477.

8/6/17  
9/10/17

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4231 A  
4231 P  
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6293 P  
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**ENTERED:**  
February 19, 2025

Judge Catherine A. Schneider

FEB 19 2025

Circuit Court-2180

Circuit Judge Catherine A. Schneider