

Vasquez v. CHI Properties, LLC

Case Number

S-17-1287

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March 1, 2019

Court Number

Douglas

Case Location

Lincoln

Case Summary

S-17-1287 Claudia Vasquez and Cesar Moreno Tinoco (Appellants) v. CHI Properties, LLC

District Court of Douglas County, Hon. J. Michael Coffey

Attorneys: Katelyn Cherney (Milton R. Abrahams Legal Clinic) for Appellants --- Mark S. Dickhute (Dickhute Law Office/ solo practitioner) for Appellee

Landlord-Tenant: Uniform Residential Landlord and Tenant Act (URLTA), Neb. Rev. Stat. §§ 76-1401 to 76-1449 (Reissue 2009). Failure to maintain fit premises; §§ 76-1419 and 76-1425.

Proceedings Below: The district court dismissed Appellants' Amended Complaint for failure to state a claim upon which relief may be granted.

Issues: The district court erred in 1) dismissing Appellants' First Cause of Action for failure to deliver possession of fit premises pursuant to Neb. Rev. Stat. § 76-1426 and concluding that a tenant who has physical possession of a rental property cannot bring a claim, 2) dismissing Appellants' Second Cause of Action for failure to maintain fit premises pursuant to Neb. Rev. Stat. § 76-1419(1) and concluding that service of a 14/30 Day Notice is a prerequisite to any claim for damages under Neb. Rev. Stat. § 76-1425(2), 3) dismissing Appellants' Second Cause of Action for failure to maintain fit premises pursuant to Neb. Rev. Stat. § 76-1419(1) and concluding that a claim for damages under Neb. Rev. Stat. § 76-1425(2) must be coupled with a claim for injunctive relief, 4) dismissing Appellants' Second Cause of Action for failure to maintain fit premises pursuant to Neb. Rev. Stat. § 76-1419(1) and concluding that Appellants availed themselves of the remedies available under Neb. Rev. Stat. § 76-1427(1) and are thus precluded from proceeding under Neb. Rev. Stat. § 76-1425, 5) dismissing Appellants' Third Cause of Action for unlawful ouster, exclusion, or diminution of service pursuant to Neb. Rev. Stat. § 76-1430 and concluding that Appellants had failed to allege that they had either recovered possession of the premises or lawfully terminated their rental agreement, and 6) dismissing Appellants' Fourth Cause of Action for retaliatory conduct pursuant to Neb. Rev. Stat. § 76-1439 and concluding that Appellants had failed to allege that they had either recovered possession of the premises or lawfully terminated their rental agreement.
