United States Bankruptcy Court
District of Delaware
824 N. Market Street
Wilmington, DE 19801

CHIEF JUDGE BRENDAN LINEHAN SHANNON

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WILMINGTON, DE 19801
(302) 252-2915

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Heather Marie Hamlett
981 Central Church Road
Dover, DE 19901

June 24, 2015

Re: Troy Garner and Williemena Garner v. Heather Marie Hamlett (15-50175 (BLS)); Trial of June 18, 2015

Dear Mr. Scanlon and Mr. and Mrs. Hamlett,

This letter follows upon a trial held on June 18, 2015 regarding the complaint filed by Troy and Williemena Garner to declare certain debts non-dischargeable. At the trial, the Court admitted numerous documents into evidence and heard testimony from Mr. & Mrs. Hamlett and from Mrs. Garner. For the reasons stated below, the Court finds in favor of the Plaintiffs and will declare that debts owed by the Hamletts to the Garners in the amount of $1,200 are not discharged.

The relevant facts in this unfortunate situation are not in material dispute. On September 1, 2012, the Garners signed a two-year lease (the "Lease") with the option to purchase the Hamlett's property located at 981 Central Church Road in Dover, Delaware (the "Property"). The Lease required that the Garners pay rent of $1,100 per month and post a $20,000 deposit in anticipation of a purchase. In addition, the Lease provided that if the Garners exercised the option to purchase the Property at any time during the two-year term of the Lease, approximately 25% of all rent payments they made would be credited toward the purchase price. [Plaintiffs' Exhibit 1 at Section 4].

As to the deposit mentioned above, the Lease required that at least $10,000 "be held at all times in escrow." The testimony reflects that Mrs. Hamlett placed $10,000 in an account at Dover Federal Credit Union.

Mrs. Hamlett testified that shortly after entering into the Lease, she and her prior husband encountered marital difficulties that ultimately led to their divorce. Mrs. Hamlett further testified that, because of financial difficulties arising from the separation and divorce, the $10,000 escrowed deposit posted by the Garners was fully spent by July of 2013.

The Lease provided that if the Garners decided in the first year not to purchase the Property, they would be entitled to a return of $15,000 from the $20,000 deposit; if that decision occurred in the second year of the Lease, they would be entitled to a return of $10,000. [Plaintiffs' Exhibit 1 at Section 6]. The Lease term expired on September 30, 2015 without the Garners exercising the purchase option, and the Garners are therefore entitled to a return of $10,000 of their deposit. The record reflects that the Garners presently remain in the Property on a month-to-month basis. The Garners have paid rent through October 2014, and have not paid any rent for the period starting in November 2014 through June 30, 2014.

It is undisputed that the Defendants were required to hold $10,000 in escrow under the Lease. It is also undisputed that they spent all of that money.[1] Under applicable Delaware law, Defendants held the escrow in a fiduciary capacity. Chapter 25 of the Delaware Code Section 5514(b) requires security deposits to be placed by the landlord in an escrow bank account. If a buyer fails to redeem the property within 120 days after default, the contract converts into a landlord/tenant agreement. 25 Del. C. § 314 (d)(3). Section 314(d)(4) provides that any down payment on a conditional sales agreement shall be deemed a security deposit, and any amount exceeding one month shall first be credited towards arrears in rent and any remainder excess paid to the tenant.

Under Bankruptcy Code § 523(a)(4), debts arising from actions taken by a debtor while acting as a fiduciary may not be discharged. *Bullock v. BankChampaign, N.A.*, 133 S. Ct. 1754, 1759 (2013). Therefore, the Court holds that the Garners' claim of $10,000 is not subject to discharge. It is, however, subject to offset for unpaid rent amounts due under the Lease. Through June 30, 2015, the record reflects that the aggregate unpaid rent is $8,800 (8 months times $1,100).

The Garners have asserted an additional claim for $6,892, representing approximately 25% of the rent payments they made under the Lease. However, to the extent the Garners have a claim for these amounts, it would not arise from any fiduciary relationship, and therefore is subject to discharge. Even more important, however, is the fact that the 25% rent credit would only come into play if the Garners had elected to purchase the Property. Nothing in the Lease indicates that the 25% of rent was part of a returnable deposit. Instead, that credit was an incentive under the Lease to the Garners to purchase the Property.

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[1] The Court notes that the parties devoted substantial time and attention to a conversation that occurred in the summer of 2013. The parties are in agreement that they discussed the Lease and Mrs. Hamlett's marital and financial difficulties. The parties also prayed together. However, the record does not support a finding that the Garners consented to the Defendants' use of the Garners' escrowed funds.

Based upon the foregoing, the Court holds that the Plaintiffs have carried their burden to prove that their claim arising from the $10,000 escrow held by Defendants is not subject to discharge. Judgment will be entered in favor of Plaintiffs and against Defendants, in the amount of $1,200, which reflects the escrow less $8,800 in accrued and unpaid rent through June 30, 2015.[2] An appropriate order will issue.

Very truly yours,

Brendan Linehan Shannon

BLS/jmm

[2] The Court notes that if the Garners remain in the Property after June 30, 2015, an additional $1,100 in rent will accrue, reducing the non-dischargeable claim to $100 by July 2015.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 7
	)	
MICHAEL CHARLES HAMLETT,	)	
HEATHER MARIE HAMLETT	)	
	)	Case No. 14-12614 (BLS)
Debtors.	)	
	)	
TROY GARNER AND WILLIEMENA GARNER,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Adv. Pro. No. 15-50175
	)	
HEATHER MARIE HAMLETT	)	
	)	
Defendant.	)	
	)	

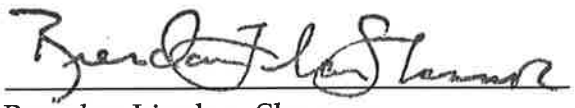
Order

AND NOW, this 24th day of June, 2015, following a trial held on June 18, 2015; for the reasons stated in the Court's letter ruling issued contemporaneously herewith, it is hereby

ORDERED, ADJUDGED and DECREED, that judgment is entered in favor of Plaintiffs, and Plaintiffs' claim against Defendant is allowed in the amount of $1,200, and such claim is not subject to discharge pursuant to 11 U.S.C. § 523(a)(4).

BY THE COURT:

Dated: June 24, 2015
Wilmington, Delaware



Brendan Linehan Shannon
Chief United States Bankruptcy Judge