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No. 47188-4-II

FILED
MAR 5 2016
WASHINGTON STATE
SUPREME COURT

**COURT OF APPEALS, DIVISION II,
OF THE STATE OF WASHINGTON**

AIKO LAWSON,

Petitioner,

v.

DANIEL AND MAUREEN KRULL

Respondent,

PETITION FOR REVIEW

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**FILED
COURT OF APPEALS
DIVISION II
2016 FEB 29 AM 9:18
STATE OF WASHINGTON
BY _____
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A. IDENTITY OF MOVING PARTY

Aiko Lawson, asks this Court to accept review of the unpublished Majority Opinion of the Court of Appeals decision terminating review. Ms. Lawson requests a slight variance to RAP 13.4 (c) f as this Petition exceeds the twenty pages by one page.

B. CITATION TO COURT OF APPEALS DECISION

The Court of Appeals decision was filed on January 12th, 2016. A Motion for Reconsideration was denied by the Court of Appeals on February 4th, 2016

ISSUES PRESENTED FOR REVIEW

- The tenant was late paying rent under an unexpired lease in May 2014. The land lord did not issue a 3 day notice and repeatedly refused to accept the rent/late fees unless the tenant agreed to changes in the lease terms. He also threatened to evict the tenant unless she agreed to these changes in the lease terms. Under an active lease, RCW 59.12.303(3) requires notice and opportunity to cure for breaches prior to proceeding with an Unlawful Detainer (UL) filing. Ejectment under RCW 7.28 does not require notice or opportunity to cure, however, if the breach is cured prior to judgment, the tenant is allowed to remain under the existing lease terms and the proceeding must be terminated, RCW 7.28.250. A Trial Court judge does not have the right to state that a landlord can pursue 'alternative remedies' such as requiring the tenant to changes in the lease terms that preclude having to follow these statutes and still without following the statutes, be able to threaten eviction if the tenant is adverse to these 'alternative remedies'.

- The COA erred in not reviewing the Trial Judge's Decision De Novo as required for Conclusions of Law though they quoted such on RP 70-71 to justify their affirmation of the decision.

If a lease term has not expired and the tenant is in breach of paying the rent on time can the landlord do the following without issuing a 3 day notice, per RCW59.12.030(3):

- have the right to refuse the rent because it is being offered more than 3 days past the due date?
- Refuse to accept the rent/late fees and threaten eviction if the tenant does not agree to changes in the lease terms?
- If a landlord states that a tenant is in breach of paying the rent and pursues an unlawful detainer action, what proof must the court require of the landlord to prove the deficiency? Can the judge refuse to review receipts of the tenant while simultaneously not requiring any documentation/receipts from the landlord before declaring the tenant to be in default?

D. STATEMENT OF THE CASE

For the purposes of this petition, AL is Aiko Lawson, DK is Daniel Krull and COA is Court of Appeals.

The parties entered into a one-year lease beginning April 15th, 2014 and terminating April 15th, 2015 with the following pertinent terms as written by Mr. Krull (Exhibit 1 Lease Agreement):

- Clause 1 and 3: Occupants of the residence were Ms. Lawson and her son, Tristan. Ms. Lawson is the sole parent of Tristan.

•Rent of \$1,250 due on or before the 10th of each month with a five-day grace period
Ex 1 Clause 5 and 6. If she paid the rent past the 15th of the month there was a \$105
late fee.RP 19 line 14: DK: “*She had a five day grace period.*”

•Clause 4. If tenant vacates before the term ends, Tenant will be liable for the
balance of the rent for the remainder of the term.

•Clause 5. Payment of rent was to be paid to Daniel Krull’s bank account, at
Vancouver Branch, Bank of America (as he lived over an hour away from the
residence he was renting out and it was rural so postal delivery was to a post office).

•Clause 24. Grounds for Termination of Tenancy. The failure of Tenant to comply
with any term of this Agreement is grounds for termination of the tenancy, with
appropriate notice to Tenant and procedures as required by law.

The following facts are undisputed and acknowledged under oath regarding the
circumstances behind the signing of the Lease Addendum on May 30th, 2014:

-Ms. Lawson was late paying the May 2014 rent on the active lease. She had the full
rent and late fees less than a week past the end of the grace period and two weeks
before the lease addendum was signed. Exhibit 4, RP 11, 35, 67.

-Mr. Krull did not issue a 3-day notice per RCW 59.12.030(3).

RP 33 lines 9-16:

**-Mr. Krull repeatedly refused to accept the late payment of the rent/late fees
unless Ms. Lawson agreed to changes in the terms of the lease**

RP 35 lines 9-21:

-Mr. Krull, while refusing to accept the rent/late fees without the expiration of a 3 day notice in place, threatened to pursue eviction of Ms. Lawson if she did not agree to changes in the terms of the lease RP 22 lines 22-24.

The Trial Court refused to address Mr. Krull not giving Ms. Lawson a 3- day notice or refusing to accept the rent/late fees in May 2014. Judge Gregerson stated Mr. Krull had the right to pursue a lease addendum as an available remedy/alternative to Ms. Lawson paying the rent late and had the right to threaten eviction if Ms. Lawson did not sign the lease addendum.

Mr. Krull brought an UL action against Ms. Lawson December 2014. The only items submitted to the court by Mr. Krull were the lease agreement, the lease addendum and the notices served in December 2014. He stated emphatically that Ms. Lawson was a liar, bounced checks and did not pay what she claimed but did not produce any records, copies of check, documents or anything to substantiate Ms. Lawson was not current in the rent payments December 2014. RP 32 lines 20-24, RP 33 1-9

AL: Okay. I don't have copies of those bank statements or bounced checks. I would like those. They're being presented as-as evidence.

Judge: Well they haven't-they haven't been offered. He's-he's made reference to them but he hasn't produced them and his attorney has not offered those statements. So they're not in evidence at this time."

AL: Well I have receipts so those have been entered.

RP 55 lines 13-18

AL: And Mr. Krull can make whatever assertions he wants but he doesn't provide any evidence. He doesn't even show his bank statements to show what he was paid or not paid. He makes these allegations of so-called excuses and bounced checks but he doesn't provide any copies, receipts, documents or proof. I have proof.

Ms. Lawson stated she did not make a payment into the court coffers December 2014, because her stance was she had overpaid and was not deficient in the rent. Ms. Lawson stated she had paid over \$2,800 over the base rent over her tenancy while Mr. Krull said it was \$1,395. She also brought up that the lease addendum should never have occurred but this was not why she stated she was current. The judge refused to review what had been paid but agreed not all of the fees may have been due to late charges. RP Page 71 lines 20-25: *"Mr. Bennett's argument is also well taken that the-the request today for this court to go back in and unwind the accounting and apply money which may have been as the result of late charges and give you a credit which would pay you through February, that would be inequitable excuse of the court's discretion and the court will decline to do so."*

The court entered findings of fact and conclusions of law and an order for a writ of restitution against Lawson at the hearing with a judgment for past due rent, costs and attorney fees. Lawson then appealed to Division II of the Court of Appeals.

Ms. Lawson concedes that she may have made things unclear in her brief by trying to point out all of the deficiencies with the Respondent's case rather than the major issues. However, the COA Opinion as generated states several erroneous 'facts' to justify their affirmation of the decisions of the trial court that are easily disputed by the record.

•The COA stated as a ‘fact’, that Mr. Krull had a mortgage payment that was due on the 15th of each month as though that substantiated his right to change the terms of the lease. No receipts, documents or records had been submitted regarding this.

•In May 2014, Ms. Lawson offered to let Mr. Krull use the security deposit for the two days until she had the rent/late fees. In her testimony, she stated she offered the security deposit **UNTIL** she had the rent **NOT IN LIEU OF** RP 37 lines 11-19:

Judge: *So-you –so you were instructing him to apply your deposit money towards the rent that was behind at that point?*

AL: *-until I could pay it and then-*

Judge: *Okay*

AL: *-it would be replaced*

Respondent’s Brief page 4 stated RP 37 lines 9-10 “Tenant Lawson’s proposed solution to her delinquent payment was to apply her security deposit to past-due rent” while leaving out lines 11-19.

•The COA stated *Ms. Lawson had to take out a payday loan to pay the May 2014 late rent and late fees on May 30th, 2014 when she signed the addendum.* Ms. Lawson had the May rent/late fees within a week of the end of the grace period. The payday loan was to obtain the June 2014 rent which Mr. Krull required being paid ten days early as part of the lease addendum (Exhibit 2).

RP 67 lines 9-12: AL:

“But forcing me to take out a payday loan-by forcing me to pay rent ten days earlier than I had planned-a whole payday before I had planned caused me to be constantly late from that point on.”

Ex. 2 Lease Addendum clause signed 5/30/2014 3: Receipt of Past Due Amounts:

May 10,2014-June 9,2014 Late Rent: \$1250.00

May 2014 Late Fee: \$ 105.00

June 10, 2014-June 30, 2014 Rent \$ 875.00 (not past due-paid in advance)

- The COA states that on page 2 that ‘Both signatures were notarized’ yet on page 10 of their Opinion they bring up that this notarization was disputed. This is a contradiction of their own words within their Opinion.

- The COA stated that the addendum was not obtained under duress because Mr. Krull had valid grounds to threaten eviction of Ms. Lawson when she was late in May 2014. This threat of eviction was contrary to RCW 59.12.030(3) and the Lease Agreement written by Mr. Krull. There was no notice or opportunity to cure per RCW 59.12.030(3), and refusal to accept the rent/fees. Exhibit 1 Clause 24.

- The COA stated that the signing of the lease addendum was not duress as Ms. Lawson had a viable choice to signing the addendum which was to leave the residence and opt out of the lease. No, she could not. She had not been given a 3-day notice per RCW 59.12.030(3) which would have given her the option of paying or vacating. Thus if she left, she was liable for the 11 months remaining rent per the lease agreement (exhibit 1 Clause 4).

- Exhibit 4 text messages between Mr. Krull and Ms. Lawson leading up to Lease Addendum (Exhibit 2) were unauthenticated. Both the Trial Court and Respondent/Respondent’s attorney deferred on the authentication of the text messages RP 7. Virtually all of the facts within these texts are substantiated by the sworn testimony of Ms. Lawson and Mr. Krull.

E. ARGUMENT WHY REVIEW SHOULD BE GRANTED

RCW 7.28.250 Action against tenant on failure to pay rent.

When in the case of a lease of real property and the failure of tenant to pay rent, the landlord has a subsisting right to reenter for such failure; he or she may bring an action to recover the possession of such property, and such action is equivalent to a demand of the rent and a reentry upon the property. But if at any time before the judgment in such action, the lessee or his or her successor in interest as to the whole or a part of the property, pay to the plaintiff, or bring into court the amount of rent then in arrear, with interest and cost of action, and perform the other covenants or agreements on the part of the lessee, he or she shall be entitled to continue in the possession according to the terms of the lease.

RCW 59.12.030(3) Notice and Opportunity to Cure on Unexpired Leases

When he or she continues in possession in person or by subtenant after a default in the payment of rent, and after notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises, served (in manner in RCW 59.12.040 provided) in behalf of the person entitled to the rent upon the person owing it, has remained uncomplished with for the period of three days after service thereof. The notice may be served at any time after the rent becomes due;

Numerous times, Ms. Lawson brought up in court that Mr. Krull had not issued a 3-day notice, refused to accept the full rent/late fees in May 2014 when she was late and threatened her repeatedly with eviction.

RP page 11 lines 14-25 opening statement of Ms. Lawson:

AL: Mr. Krull in May of 2014 of this year-I offered to pay the rent and late fees. He did not serve me a Three Day Notice or anything such as that. His stance was you either agree to the lease being changed or I will evict you. And I told him you have to follow the proper protocol of a Three Day Notice, I will have paid by then before attempting to go forward. And he said if you deposit the funds into my

account-because that was how I was paying-I will reject it and proceed with eviction proceedings. I will blacklist you if you try to fight it... (Exhibit 1 Clause 5)

RP page 66 lines 20-24 closing statement of Ms. Lawson:

And in regards to this addendum, the law clearly states if the tenant offers to pay it (the rent) by the end of a Three Day Notice-and there wasn't even a Three Day Notice-that the landlord has to accept it. And he admits he refused to. What was I to do?

COA quoted Conclusions of Law by the Trial Court RP70-71 to justify their affirmation of the Lease Addendum being enforceable but did not review de novo. The Conclusions of Law as stated are contrary to the Statutes in place and Case Law and Contradicted by the testimony of both parties.

Questions on whether the law was interpreted or applied properly should be reviewed de novo. Indigo Real Estate Servs., Inc. v. Wadsworth, 169 Wn. App. 412, 417, 280 P.3d 506 (2012). The COA on Page 10 of their opinion stated the existence of duress is a factual determination based on an evaluation of the surrounding circumstances and the parties' characteristics. The trial court considered the evidence and found no duress. It is not our job to second guess the trial court. This approach by COA Division II is in marked contrast to a recent Published Decision by the same division; Peralta v. State of Washington WSP 45575-7-II page 10 "When confronted with mixed question of law and fact, we independently determine the law and apply it to the facts." "We review questions of law and the application of the law to the facts de novo."

Both Mr. Krull's attorney and the COA used as justification to affirm the Trial Court's decision, the Report of Proceedings at 70-71 in which Judge Gregerson made

the following conclusions of law based on the evidence and circumstances presented by the parties (bolded and underlined part was left out in both the Respondent's Brief and the COA in their Opinion):

The notion of duress in a court of law is not whether the transaction was pleasant, not whether it was voluntary-meaning both sides were happy to enter into it.

But really whether somebody's free will was taken away either through threat of physical force or something else that was so improper that it would shock the conscience of the court and really it was not a person's free will.

The court considers the evidence, the testimony and the exhibits and certainly from Ms. Lawson's standpoint looking at the text message exchange there this court can in no way endorse...the language or modes of communication.

In fact it's-I'll go so far as to call it somewhat disgusting as somebody who used to work in the landlord industry. It is not appropriate.

The question is whether legally it rises to the level of duress. This court cannot find that it does rise to the level of duress.

In essence what we have is a situation where a tenant was already in breach of the agreement and as unpleasant as the negotiation process appears to have been Mr. Krull gave up and relied upon remedies that he might have been able to avail himself of because of the non-payment or late payment of the rent.

He basically negotiated and said I'm not putting up with this-you have to sign this to turn back the due date of the rental or else I'm going to go forward with my legal remedies.

That was not a threat in the sense of physical harm or wrongful conduct. It was simply a threat to carry out what he believed his legal rights to be under Washington Landlord/Tenant Law-albeit sprinkled with some other things which refer to blacklisting, excluding someone from the rental market which again I think are highly inappropriate and highly suspect and in theory could be addressed in some other form.

But this court cannot deny the eviction request simply on that basis.

The Trial Judge also made the following statement regarding Mr. Krull refusing to accept the rent/late fees from Ms. Lawson (but refused to state what these ‘circumstances’ would be)

RP 73 lines 5-8

“If a tenant is in breach a landlord can-under certain circumstances-refuse to accept rent and avail himself or herself of other remedies.”

The following testimony disputes Judge Gregerson’s Conclusions of Law:

-Mr. Krull did not issue a 3-day notice per RCW 59.12.030(3).

RP 33 lines 9-16:

AL: *When I was late in May-when I offered to pay you, what was your response?*

DK: *Because you are so late that I’m going to require you to modify the lease if you want to remain a tenant in this house.*

AL: *Did you ever serve me a Three Day Notice at that time?*

DK: *No, I did not.*

-Mr. Krull repeatedly refused to accept the late payment of the rent/late fees unless Ms. Lawson agreed to changes in the terms of the lease

RP 35 lines 9-21:

AL: *What incentive did you give me to sign this agreement? I had the rent-why would I sign this agreement? It was totally within the law for me to just pay you the rent and late fees. Why would I sign it?*

DK: *I believe you signed the lease amendment because you wanted to remain a tenant in my house.*

AL: *You couldn't legally reject the payment-did you say you were going to reject the payment if I put it into your account?*

DK: *I think this is the third time that I'm going to say yes. If you did not agree to modify the lease, I was not going to accept the payment around the 22nd or whenever you said you were going to have it. I did say that, yes.*

-Mr. Krull, while refusing to accept the rent/late fees without the expiration of a 3 day notice in place, threatened to pursue eviction of Ms. Lawson if she did not agree to changes in the terms of the lease

Exhibit 4:

"I will reject any deposit you make toward rent. You either agree to a new lease with MY terms or you can be evicted. Those are your only choices."

"I will make sure you are homeless and no one else rents to you."

RP 22 lines 22-24:

"I did tell her I would hire an attorney to have her evicted or at least to attempt to have her evicted if she didn't agree to modify the lease".

The Conclusions of Law stated RP70-71 are contrary to Wa. Statutes and Case Law: Judge Gregerson: “**The court considers the evidence, the testimony and the exhibits...**” The only exhibits presented by Mr. Krull were the lease agreement, addendum and 3-day notice issued in December 2014. Mr. Krull did not present any other evidence. Mr. Krull under oath acknowledged not issuing a 3-day notice, RP 33 lines 9-16, and refusing to accept the rent/late fees, RP 35 lines 9-21 and threatening to evict if Ms. Lawson did not agree to changes in the lease terms, RP 22 lines 22-24, while 'negotiating' the lease addendum in May 2014. In Financial Assistance, Inc v. Byron Slack, 72361-8-I, Judge Gregerson ruled against Financial Assistance, Inc. because their record keeping was not complete or sufficient in his judgment to support a ruling against Byron Slack. Yet in this case he required no documentation/records/receipts at all to be presented by Mr. Krull.

Judge Gregerson: “**Mr. Krull gave up and relied upon remedies that he might have been able to avail himself of because of the non-payment or late payment of the rent.**”

Mr. Krull had no right to pursue any other remedies once he refused the offer of full payment of the late rent/late fees without an expired notice in place per RCW 59.12.030(3). Case law states that only if a notice has expired can a landlord refuse the full offer of rent/fees. There is no case law supporting having other remedies available such as requiring the lease terms be changed in order for the rent/fees to be accepted and the tenancy continue without this expired notice in place. This is regardless of whether you are interpreting it via the RTLA RCW 59.12 or Ejectment

process RCW 7.28. Under RCW 7.28.250, if judgment has not occurred, once the rent/fees are received, the tenancy under the existing lease terms continues.

Judge Gregerson: “**He basically negotiated and said I’m not putting up with this- you have to sign this to turn back the due date of the rental or else I’m going to go forward with my legal remedies”**”

There was no negotiation. Mr. Krull did not issue a 3-day notice as required under an active lease in order for him to pursue eviction once that has expired. He refused to accept the rent/late fees *unless Ms. Lawson agreed to changes in the lease terms*. He threatened to evict regardless of whether she had the rent/late fees *unless she agreed to changes in the lease terms*. There is nothing in the statutes nor case law that says a landlord without an expired notice per RCW 59.12.030(3), can refuse the full payment of the late rent and still use the threat of eviction to pursue changes in a lease. Even RCW 7.28 Ejectment, which does not require notice, states under RCW 7.28.250 that payment of the rent/fees prior to judgment occurring allows the tenant to remain in the residence under the same lease terms.

Judge Gregerson: “**That was not a threat in the sense of physical harm or wrongful conduct.** “

It was wrongful conduct as essentially it was a threat of illegal eviction contrary to RCW 59.12.030(3) or RCW 7.28, contrary to even the lease agreement that Mr. Krull himself had written up (Exhibit 1 clause 24) that *stated that breach of terms are grounds for termination with appropriate notice and procedures as required by law*. Mr. Krull was using Ms. Lawson being late as leverage to force her into changes in the lease terms. It was wrongful conduct for him to refuse to allow Ms.

Lawson to have the opportunity to cure the breach. It was wrongful conduct for him to threaten her with eviction not because the rent had not been paid (refusal) but because he wanted changes in the terms of the lease.

Judge Gregerson: **“It was simply a threat to carry out what he believed his legal rights to be under Washington Landlord/Tenant Law-“**

The only way to understand Mr. Krull’s threat if she did not sign the lease addendum, and the way Ms. Lawson understood it, was that he was threatening her with both an illegal eviction and blacklisting. That the threatened eviction was an illegal one is established by the fact that Mr. Krull never issued a three-day pay or vacate notice, and by the fact that he rejected her multiple offers to pay the rent and late fees prior to the end of the month. In fact, he clearly stated that Ms. Lawson’s only choices were to sign the lease addendum or be evicted/blacklisted. Mr. Krull knew what a three-day notice was (CP 31,34,37), per his own testimony. Mr. Krull did not believe it was his legal right to threaten eviction, refuse to accept the payment of the rent/late fees or force Ms. Lawson to changes in the lease agreement. He used his position as landlord to force Ms. Lawson to such changes in line with what he wanted.

Judge Gregerson RP 73 lines 5-8:

“If a tenant is in breach a landlord can-under certain circumstances-refuse to accept rent and avail himself or herself of other remedies.”

Under an unexpired lease, there is nothing in the statutes or case law that supports this statement without having a notice in place that has expired. That is the only situation in which a landlord can refuse to accept the full payment of the rent and any associated fees. 59.12.030(3).

When Ms. Lawson asked Mr. Krull under oath what incentive he gave her to sign the lease addendum in spite of the fact she had the rent/late fees. Under oath, his response was RP 35 lines 10-11:

“I believe you signed the lease addendum because you wanted to remain a tenant in my house.” There is no lack of clarity in that statement. It was clear that Mr. Krull expected that if Ms. Lawson did not sign the lease addendum she was going to be gone from the house and not be a tenant there anymore.

2.The Court of Appeals Decision Conflicts with Case Law on RCW 59.12.030(3) and RCW 7.28.250

The decision of the Trial Court and Court of Appeals is in conflict with at least one or more decisions of the Court of Appeals Divisions 1 and 3 and the Supreme Court of Washington under the RTLA. Clearly, it has been stated that a landlord must abide by the notice and opportunity provisions of RCW 59.12.030(3) for unexpired leases. With ejectment under RCW 7.28, which does not require a notice or opportunity to cure, this action is moot if payment is made. Refusal to accept rent does not constitute deficiency in paying the rent unless an expired notice is in place. *Stare decisis*, is the principle that courts should follow the previous decisions when dealing with substantially identical issues.

“A landlord is not excused from providing a required notice of default and opportunity to cure based on the belief that the breach is incurable” DC Farms, LLC v. Conagra FoodsLamb Weston, Inc., 317 P.3d 543, 552 (div. 3, 2014) Division 3 developed a 3 prong test to determine if the proper steps have been taken in an unlawful detainer case. *Relief under the unlawful detainer statute requires: (1) the*

tenant's breach, (2) notice to the tenant of the existence of a breach with an opportunity to correct, and (3) failure by the tenant to correct the breach. For unexpired leases, this is per 59.12.030(3).

“A landlord cannot bypass the notice and right to cure provision of RCW 59.12.030(3) during an active lease term prior to pursuing eviction and must accept any full offer of the rent/late fees if no expired notice is in place.” FPA Crescent Associates, LLC v. Jamie’s LLC; Pendleton Enterprises 32705-1-III P. 1, 11,12 (2015).

“Even if the tenants are late in their payment, a landlord cannot refuse to accept the full payment of the rent and any associated late fees if there is not an expired notice in place nor can they pursue eviction.” Jeffries v. Spencer, 86 Wash. 133, 149 P. 651 (1915).

Whether Mr. Krull’s threats to pursue eviction/ejectment were per RCW 59.12.030(3) or RCW 7.28, the statutes were violated under the procedural undertaking of the lease addendum and the trial judge abused his discretion by allowing that Mr. Krull did not have to abide by the statutes in place.

3. The Court of Appeals Decision Conflicts with Case Law on Procedurally Unconscionable Contracts.

If the COA had gotten their facts correct, and also reviewed what the Trial Court stated on RP 70-71 de novo as required for conclusions of law it would have opened the door for the application of contract laws to be examined in regards to the formation of the lease agreement. *“Where a party has signed a contract, he or she is presumed to have objectively manifested assent to its contents.”* See Skagit State

Bank v. Rasmussen, 109 Wn. 2d 377, 391-84, 745 P.2d. *However, that rule does not apply where another contracting party committed fraud, deceit, misrepresentation, coercion or other wrongful acts.* See Yakima Cnty (W. Valley) Fire Prot. Dist. No 12 v. City of Yakima, 122 Wn.2d.371,389,858 P.2d 245 (1993). Manual Cruz, et Ano., Resps. vs. Abel Chavez, Et Al., App. Div I, 70741-8 (2015) pages 6 and 7

A contract can be procedurally unconscionable if it is found to have been obtained under undue influence, duress and/or coercion. Mayne v. Monaco Enterprises, Inc. 32978-0-III. *Procedural unconscionability involves impropriety in formation of an agreement.* Restatement (Second) of Contracts 176(1) and (2). *A contract is also procedurally unconscionable if the pursuit of the contract is done bypassing the statutes in place that normally would be followed.* In this case, Mr. Krull was required by statute to either accept the rent/late fees under RCW 7.28.250 if the threat is ejection without a notice or to provide a notice and opportunity to correct per RCW 59.12.030(3) if the threat is eviction.

Procedural unconscionability involves an inequality of bargaining power and an absence of real negotiation or meaningful choice. Morris v. Redwood Empire Bancorp, 128 Cal. App. 4th 1305, 1319, 27 Cal. Rptr. 3d 797 (2005) as quoted in Brown v. MHN Gov't Servs. Inc. Supreme Court of Washington 89532-2. Mr. Krull's refusal to accept Ms. Lawson's offer to pay the rent/late fees without an expired notice in place, that would give him the right to refuse, took away the only meaningful choice Ms. Lawson had to correct her breach of paying the rent late.

4. This Case Involves Fundamental and Urgent Issues on the Interpretation of Rights/Remedies Available to a Landlord When A Tenant is in Breach. This is of Immense Interest to a Wide Portion of the Public Requiring Prompt and Ultimate Determination.

Following the statutes in place is imperative for both the landlord and the tenant. It should not be tolerated for anything differently to be acceptable, regardless of whether an individual is represented or not. The COA and trial court by their decision, are stating that a landlord can resort to other remedies, without first implementing the notice and opportunity to cure provisions of 59.12.030 (3) or if the landlord plans to pursue ejectment per RCW 7.28, that the landlord can refuse full payment of the rent/late fees in violation of RCW 7.28.250.

Most tenants when threatened with an unlawful eviction will 'cave' because they realize that fighting a wrongful eviction can never result in a tenant actually 'winning'. If the thought that the courts are pro-landlord especially if unrepresented, were not enough of a deterrent, the guaranteed adverse effect of the filing would be. In the rental world, the mere filing of an UL will result in what has been termed 'blacklisting' of renters. In the case of Hundtofte v. Encarnacion, 88036-1, which went through both the Court of Appeals and Superior Court, Encarnacion technically 'won' their case. In that case, the building had been sold, and the new owners tried to force them to new terms in their lease, which was still active. However, now their names were associated with an UL proceeding. The Superior Court ruled that the right for open administration of justice outweighed the rights to privacy of the tenant and used as justification that the Encarnacions were able to obtain housing even if not in the neighborhood they desired. This case was several years past. The rental market is at its lowest rate of vacancy and highest per capital cost per tenant. With the cost of homes for sale rising and loan requirements stricter, very few can buy and more and more investors are buying homes to rent out. A person with an UL filed

against them ends up with virtually no choices or extremely limited choices resulting in having to live in dangerous locations, substandard housing or under tenuous conditions. Tenant-screening companies and landlords regularly gather and report name searches in the Superior Court Management Information System (SCOMIS) and deny tenancy based only on whether the prospective tenants name shows up as having been filed against. Unlike a credit report, these records never drop off after a period of time and many properties have an 'ever' policy no matter how long ago the filing occurred. Having one application denied does not show the extent of places that over the phone will tell you not to bother with an application because of the court record.

Even in Ms. Lawson's situation, her name was buried previously in the UL proceedings that were due to domestic violence issues and had never resulted in an eviction (though Ms. Lawson had to countersue one landlord to get her deposit back). These UL proceedings were unearthed by Mr. Krull's attorney and brought up in court but after the domestic violence came out as the reason, Mr. Krull's attorney requested it be struck from the record RP 54 lines 14,15 and the judge stated it was of limited value RP 54 lines 18-20. The Court of Appeals, even without either party bringing it up in their briefs, felt fit to bring it up in their opinion as part of their justification for their decision. Ms. Lawson knew that if she fought against Mr. Krull forcing her to changes in the lease addendum and he went forward with an eviction proceeding, she would still 'lose' regardless of the outcome of the unlawful detainer. An UL proceeding solely in her name has made her current living situation tenuous at best. Even if a tenant were to fight it in court, it is a known fact that an

unrepresented individual is likely to lose regardless of the evidence because they either cannot effectively present their side or of bias within the court systems. Most tenants cannot afford to hire an attorney to fight against a landlord, many who have attorneys on retainer to handle this numerous times a year.

E. CONCLUSION

This Court should grant review. RAP 13.4(b). The Opinion of the Court of Appeals and the Trial Court's Judgment is contrary not only to decisions previously made by each of them but with decisions made by other Court of Appeals. The Trial Court violated their discretion by giving Mr. Krull rights that he does not have per the statutes in place. There is a significant question of law under the Constitution of the State of Washington and involves an issue of substantial public interest. This Court should reverse the Court of Appeals and Trial Court. Costs on appeal, including consulting attorney fees, should be awarded to Ms. Lawson. Ms. Lawson deliberately did not put her name or status as pro se on the front of the document as it appears to be synonymous with 'ignore'.

Signed on February 25th, 2016

 Aiko Lawson

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360-448-9858
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APPENDIX

- 1) COA Opinion Filed January 12th, 2016**
- 2) COA Denial of Motion for Reconsideration filed
February 4th, 2016**
- 3) Exhibit 1-Lease Agreement**
- 4) Exhibit 2-Lease Addendum**
- 5) Exhibit 4-Transcript of Cell Phone Text Messages
Between Aiko Lawson and Daniel Krull May 2014**

Majority Opinion Filed 1-12-2016

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON May 12, 2016

DIVISION II

DANIEL KRULL and MAUREEN KRULL,

Respondents,

v.

AIKO LAWSON,

Appellant.

No. 47188-4-II

UNPUBLISHED OPINION

MELNICK, J. – Aiko Lawson appeals the writ of restitution and judgment awarded against her in this unlawful detainer action filed by her landlords, Daniel and Maureen Krull. She argues that the improper service of the unlawful detainer notice and eviction summons deprived the trial court of jurisdiction, that the underlying lease addendum was the result of coercion and duress, and that the evidence does not support the trial court’s finding that she defaulted in paying rent. Because service of both the notice and summons complied with the statutory requirements, and because substantial evidence supports the trial court’s findings that the lease addendum was not the result of coercion and duress and that Lawson was not current in paying her rent, we affirm and grant the Krulls’ request for attorney fees on appeal.

FACTS

Lawson and the Krulls entered into a one-year residential lease that started April 15, 2014. Under the lease, Lawson’s rent of \$1,250 was due before the 10th day of each month. The Krulls’ mortgage payment on the residence was due by the 15th of each month. Lawson made an initial rent payment when she signed the lease, but she was late with the next payment in May. In response, the Krulls renegotiated the terms of the lease with Lawson to make her rent due on the

first day of the month. Lawson signed the lease addendum on May 30, and Daniel Krull signed it on June 2. Both signatures were notarized.

When Lawson failed to pay rent on December 1, the Krulls issued a three-day notice to pay rent or vacate. The Krulls completed service of this notice on December 4 by posting a copy of the notice at the residence and mailing it there. The Krulls also served Lawson with a 10-day notice to comply with the lease regarding payment of overdue late fees and the removal of dogs that violated the lease terms.

After Lawson failed to pay the December rent or vacate the property, the Krulls filed a complaint for unlawful detainer on December 9. This complaint, along with the eviction summons, payment statement, motion and declaration for order to show cause, and the order to show cause, was served on a young man at the Lawson residence who identified himself as “Sam” and claimed to be Lawson’s roommate. Clerk’s Papers (CP) at 53.

In a written response to the complaint, Lawson asserted that she did not owe rent for December and January because the Krulls had changed the lease terms improperly. She also attached illegible bank statements to an addendum explaining that she was current in her rental payments under the terms of the original lease.

At the show cause hearing, Lawson contended that she signed the lease addendum under duress and maintained that she was current in her rent under the terms of the original lease agreement. Lawson also complained that the summons was served on her son, who was a minor. Because of the factual disputes between the parties, the judge set the matter for trial.

At trial, Daniel Krull testified that Lawson began to fall behind in her rent in May 2014. Fearing that her late payment would result in a default on his mortgage, Krull rejected Lawson’s suggestion that he apply her security deposit to the delinquent rent. Instead, he presented Lawson

with the lease addendum that required rent payments by the first of the month, with a three-day grace period. Krull testified that Lawson struggled with subsequent rent payments until she failed to pay her December rent. He added that Lawson had paid \$1,395 in late fees over the course of her tenancy.

Lawson testified that because the Krulls had made her change the due date for her rental payments, she was going to be late with those payments every month. She asserted that if the addendum was rescinded and the late fees applied to her rental obligations, her rent would be current through February 10, 2015. Lawson estimated that she had paid more than \$2,800 in late fees. She explained that she obtained a loan to pay the rental and late fees on May 30, the date she signed the addendum.

Lawson testified further that she had been coerced into signing the addendum changing the due date. To support her contention, she introduced copies of text messages that she and Daniel Krull had exchanged. The trial court admitted the messages over the Krulls' authentication objection. Those messages show that Krull used profanity and threatened to evict Lawson, to render her homeless, and to blacklist her with area rental agencies if she did not vacate the premises or sign the addendum. In addition to her duress argument, Lawson contended that the addendum was invalid because her signature had not been notarized at the time of signing. During her cross-examination, Lawson admitted to being a party to previous eviction proceedings and to suing a different landlord the year before. She added that she wanted to remain in the Krull rental property until she could use her veteran's benefits to purchase her own home.

The trial court found that there was no duress sufficient to invalidate the lease addendum. The trial court also found that the Krulls had properly served the three-day notice as well as the eviction summons. The trial court granted the Krulls a judgment of \$1,250 that excluded their

request for late fees and rental damages, and it awarded the Krulls attorney fees and costs of \$1,500. The trial court also granted the Krulls an immediate writ of restitution. Lawson appeals.

ANALYSIS

I. SERVICE OF THREE-DAY NOTICE AND EVICTION SUMMONS

Lawson argues that the trial court lacked jurisdiction over the unlawful detainer proceedings because the Krulls failed to properly serve the three-day notice and the eviction summons.¹ The trial court entered the following findings of fact and conclusions of law regarding service:

4. Notice. On December 4, 2014, a Three Day Notice to Pay Rent or Vacate was served on defendant in accordance with RCW 59.12.040. Defendant has failed to correct said default, has paid nothing to plaintiff subsequent to the service of said notice, are still in default, and / or have not vacated the premises.

....
7. Summons. On Tuesday, December 9, 2014, defendant(s) was (were) served with the statutory summons allowing an Immediate Writ of Restitution without bond and defendant(s) has filed a written response to the Complaint.

CP at 69-70.

We review a trial court's findings of fact for substantial evidence, which is evidence sufficient to persuade a fair-minded person of the truth of the finding. *Harris v. Urell*, 133 Wn. App. 130, 137, 135 P.3d 530 (2006). If substantial evidence supports the findings of fact, we consider whether the findings support the conclusions of law. *Harris*, 133 Wn. App. at 137. We review conclusions of law and questions of law de novo. *Cogdell v. 1999 O'Ravez Family, LLC*, 153 Wn. App. 384, 390, 220 P.3d 1259 (2009).

¹ Lawson also mentions service of the 10-day notice that ripened during the pendency of the proceeding, but we do not address this notice because the trial court did not consider it. A 10-day notice is required if a tenant is in breach of any covenant other than a covenant to pay rent. RCW 59.12.030(4); *Bellevue Square Managers, Inc. v. GRS Clothing, Inc.*, 124 Wn. App. 238, 245, 98 P.3d 498 (2004).

A. Service of Three-Day Notice

If a tenant breaches a rental agreement by failing to make timely rental payments, a landlord may commence an unlawful detainer action. *Christensen v. Ellsworth*, 162 Wn.2d 365, 370, 173 P.3d 228 (2007). An unlawful detainer action is a statutorily created proceeding that provides an expedited route to resolve the possessory right in property. *Christensen*, 162 Wn.2d at 370-71; *Hous. Res. Grp. v. Price*, 92 Wn. App. 394, 401, 958 P.2d 327 (1998).

The unlawful detainer statute authorizes a three-day notice to pay rent or vacate the premises for a tenant's default in paying rent. *Price*, 92 Wn. App. at 401; RCW 59.12.030(3). The purpose of the three-day notice is to provide the tenant with “at least one opportunity to correct a breach before forfeiture of a lease.” *Christensen*, 162 Wn.2d at 371 (quoting *Hous. Auth. of Everett v. Terry*, 114 Wn.2d 558, 569, 789 P.2d 745 (1990)).

A three-day notice to pay or vacate must be served in accordance with RCW 59.12.040. RCW 59.12.030(3); *Christensen*, 162 Wn.2d at 371. Compliance with the method of process in RCW 59.12.040 is jurisdictional. *Terry*, 114 Wn.2d at 564. If the tenant is unavailable for personal service, service may be effectuated by “affixing a copy of the notice in a conspicuous place on the premises unlawfully held” and sending an additional “copy through the mail addressed to the tenant . . . at the place where the premises unlawfully held are situated.” *Christensen*, 162 Wn.2d at 371 (quoting RCW 59.12.040(3)); *Leda v. Whisnand*, 150 Wn. App. 69, 85, 207 P.3d 468 (2009). Service by mail adds an additional day to the notice requirement; thus, a tenant is guilty of unlawful detainer four days after the notice is properly posted and mailed.² *Christensen*, 162 Wn.2d at 371. Once a tenant is guilty of unlawful detainer under RCW 59.12.030(3), a landlord may commence

² Lawson alleges in her reply brief that the envelope containing the three-day notice was postmarked December 6, thus making the December 9 unlawful detainer complaint premature, but she did not make this assertion during trial and the envelope is not part of the appellate record.

an unlawful detainer action by service and filing of the statutory summons and complaint. *Christensen*, 162 Wn.2d at 371; RCW 59.12.070.

The Krulls served the three-day notice by posting a copy on the door of the rental property and by mailing a copy to its address. Lawson offered no testimony challenging Daniel Krull's testimony describing that service or his written declaration of service. Accordingly, the trial court did not err in concluding that service of the three-day notice complied with the statutory requirements.

B. Service of Summons

Proof that the defendant was properly served with a statutory unlawful detainer summons is another jurisdictional requirement. *Christensen v. Ellsworth*, 162 Wn.2d 365, 372, 173 P.3d 228 (2007). The statute governing service states that “[t]he summons must be served and returned in the same manner as summons in other actions is served and returned.” RCW 59.12.080. Former RCW 4.28.080(15) (2012) provides that in all cases other than those specified (which do not include unlawful detainer actions), a summons shall be served to the defendant personally, or by leaving a copy “at the house of his or her usual abode with some person of suitable age and discretion then resident therein.”

The return of service declaration stated that a copy of the summons was served on Lawson by delivering it to “Sam,” who identified himself as Lawson's roommate and who appeared to be of suitable age and discretion and a resident of the rental property.

Lawson argued below and in her opening brief that this service on Sam, her son, was invalid because he was a 17-year-old minor.³ The Krulls responded by citing authority showing that

³ Lawson's son did not testify at trial. Lawson offered to have him testify about her previous abusive relationship, but the Krulls stipulated to those facts. Lawson did not seek to have her son testify about the means of service.

service on a 15-year-old minor was deemed valid. *See Miebach v. Colasurdo*, 35 Wn. App. 803, 808, 670 P.2d 276 (1983) (upholding trial court’s finding that 15-year-old foster daughter was person of suitable age and discretion for purposes of receiving service of process and noting that other courts have upheld service to minors that age), *aff’d*, 102 Wn.2d 170, 179, 685 P.2d 1074 (1984). Lawson then asserted for the first time in her reply brief that “Sam” was actually her son’s friend and was waiting on the front porch for her son.

We decline to consider this new and unsupported assertion. Lawson’s claim that her son was not eligible to receive service because he was 17 years old fails as a matter of law. Service of the summons was sufficient to satisfy the requirements of former RCW 4.84.080(15) and, in turn, the requirements of RCW 59.12.080. The trial court thus did not err in concluding that Lawson was served with the eviction summons.

II. LEGALITY OF ADDENDUM

Lawson also argues that the lease addendum that triggered the unlawful detainer proceedings was unlawful because it was the result of coercion and duress and was improperly notarized.⁴ We disagree.

A. Duress

The trial court regarded this issue as the principal one at trial and addressed it as follows:

The notion of duress in a court of law is not whether the transaction was pleasant, not whether it was voluntary—meaning both sides were happy to enter into it.

But really whether somebody’s free will was taken away either through threat of physical force or something else that was so improper that it would shock the conscience of the court and really it was not a person’s free will.

The court considers the evidence, the testimony and the exhibits and certainly from Ms. Lawson’s standpoint looking at the text message exchange there this court can in no way endorse . . . the language and modes of communication.

⁴ Lawson also argues, for the first time on appeal, that Krull’s threats constituted criminal harassment. RCW 9A.46.020(1). We decline to consider this argument. RAP 2.5(a).

....

The question is whether legally it rises to the level of duress. This court cannot find that it does rise to the level of duress.

In essence what we have is a situation where a tenant was already in breach of the agreement and as unpleasant as the negotiation process appears to have been Mr. Krull gave up and relied upon remedies that he might have been able to avail himself of because of the non-payment or late payment of rent.

He basically negotiated and said I'm not putting up with this—you have to sign this to turn back the due date for the rental or else I'm going to go forward with my legal remedies.

That was not a threat in the sense of physical harm or wrongful conduct. It was simply a—a threat to carry out what he believed his legal rights to be under Washington Landlord/Tenant law—albeit sprinkled with some other things which refer to blacklisting, excluding somebody from the rental market which again I think are highly inappropriate and highly suspect and in theory could be addressed in some other form.

But this court cannot deny the eviction request simply on that basis.

Report of Proceedings at 70-71.

The question of whether there is duress is one of fact to be determined from all of the surrounding circumstances and the personal characteristics of the parties involved. *State ex rel. Bradford v. King County*, 197 Wash. 393, 400, 85 P.2d 670 (1938); *see also Retail Clerks Health & Welfare Tr. Funds v. Shopland Supermarket, Inc.*, 96 Wn.2d 939, 945, 640 P.2d 1051 (1982) (circumstances provided insufficient evidence to establish claim of duress). A party seeking to rescind a contract based on duress has the burden of proving it by clear, cogent, and convincing evidence. *In re Welfare of J.N.*, 123 Wn. App. 564, 576-77, 95 P.3d 414 (2004); 6A WASHINGTON PRACTICE: WASHINGTON PATTERN JURY INSTRUCTIONS: CIVIL 301.10, cmt at 224 (6th ed. 2012) (WPI).

We review a trial court's finding that there was no duress for substantial evidence. *J.N.*, 123 Wn. App. at 577; *Pleuss v. City of Seattle*, 8 Wn. App. 133, 137, 504 P.2d 1191 (1972). If this standard is satisfied, we will not substitute our judgment for that of the trial court, even though we might have resolved the factual dispute differently. *Sunnyside Valley Irrigation Dist. v. Dickie*,

149 Wn.2d 873, 879-80, 73 P.3d 369 (2003); *Keever & Assoc., Inc. v. Randall*, 129 Wn. App. 733, 737, 119 P.3d 926 (2005). We defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. *State v. Thomas*, 150 Wn.2d 821, 874-75, 83 P.3d 970, *abrogated in part on other grounds by Crawford v. Wash.*, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004); *Morse v. Antonellis*, 149 Wn.2d 572, 574, 70 P.3d 125 (2003).

To establish duress or coercion sufficient to repudiate a signature to a contract, a party must prove that the duress resulted from the other's wrongful or oppressive conduct. *Retail Clerks Health & Welfare Tr. Fund*, 96 Wn.2d at 944. The mere fact that a contract is entered into under stress or pecuniary necessity is insufficient. *Retail Clerks Health & Welfare Tr. Fund*, 96 Wn.2d at 944. Circumstances must demonstrate that a person was deprived of his free will at the time he entered into the agreement to sustain a claim of duress. *Retail Clerks Health & Welfare Tr. Fund*, 96 Wn.2d at 944-45; *see also* RESTATEMENT (SECOND) OF CONTRACTS, § 175, cmt. b (1981) (even if improper, threat does not amount to duress if the victim has a reasonable alternative to succumbing and fails to take advantage of it).

"[A] mere threat to exercise a legal right made in good faith is neither duress nor coercion in law." *Pleuss*, 8 Wn. App. at 137; *see also Gibson v. Thisius*, 16 Wn.2d 693, 696, 134 P.2d 713 (1943) (threat made in good faith to resort to legal process does not constitute duress); WPI 301.10, note on use at 222 (if applicable, court should instruct jury that a threat to exercise a legal right, made in good faith, is not improper). A threat may be said to be made in good faith if made in the honest belief that valid grounds exist to justify the action threatened. *Pleuss*, 8 Wn. App. at 137-38.

Krull's threat to evict Lawson if she did not agree to the lease addendum did not constitute duress, as he had valid grounds to justify that threatened action. While he had no legal right to threaten her with homelessness or blacklisting, substantial evidence supports the trial court's finding that these additional threats did not constitute duress. Lawson's complaint that she had no money to move elsewhere does not show that Krull's threats overcame her will, particularly when she was able to obtain a loan to pay the rent and penalties she owed at the end of May. Among other options, Lawson could have vacated the property instead of signing the lease addendum, thus leaving her with a reasonable alternative to signing.

As stated, the existence of duress is a factual determination based on an evaluation of the surrounding circumstances and the parties' characteristics. The trial court considered the evidence and found no duress. It is not our job to second guess the trial court.⁵ While we might have resolved the issue differently, substantial evidence supports the finding that Krull did not engage in duress sufficient to render the lease addendum voidable.

B. Notarization

Lawson also argues that the addendum was improperly notarized. Her signature (dated May 30) and Krull's signature (dated June 2) are on a single page of the addendum that contains the notarization of Krull's signature (dated June 2). A following page contains the notarization of Lawson's signature and is dated May 30. Lawson argued during trial that the notarization of her signature was fraudulent, but the trial court reasoned that whether or not the addendum was properly notarized was immaterial. As the trial court recognized, notarization of the signatures

⁵ It is clear that the trial court listened to the testimony and reviewed the exhibits. It determined the weight to be given to the witnesses and the evidence. RP 70-71. The dissent seemingly is reweighing the evidence from a cold record and arriving at a conclusion different from the trial court.

was not necessary to validate the one-year lease addendum. RCW 59.04.010; *Sound Built Homes, Inc. v. Windermere Real Estate/S., Inc.*, 118 Wn. App. 617, 627 n.19, 72 P.3d 788 (2003).

Accordingly, we reject Lawson's challenges to the validity of the lease addendum.

III. DECEMBER RENTAL PAYMENT

Lawson also argues that the evidence was insufficient to show that she did not pay the December rent. This is a challenge to the trial court's finding of fact that she did not pay the December rent or a late fee for that month. We review this finding for substantial evidence. *Harris*, 133 Wn. App. at 137.

At trial, Lawson did not dispute that she did not pay December rent to the Krulls and admitted that she had not paid it into the court registry. Lawson testified that she would be current in her rent under the previous lease agreement because her previous late fees could be applied to her outstanding rental obligation. During its oral ruling, the trial court observed that the parties agreed that Lawson did not pay rent on December 1 or within three days following the three-day notice.

Lawson now contends that she did pay the December rent, and she cites illegible bank statements attached to an exhibit to support this contention. We hold that substantial evidence supports the trial court's finding that Lawson defaulted on her December rent.

IV. ATTORNEY FEES ON APPEAL

Both parties request an award of attorney fees and costs on appeal. The Krulls argue that they are entitled to fees under RCW 4.84.330. We review de novo whether a statute authorizes attorney fees. *Estep v. Hamilton*, 148 Wn. App. 246, 259, 201 P.3d 331 (2008).

RCW 4.84.330 states the rule for attorney fees in any action on a contract:

In any action on a contract . . . where such contract or lease specifically provides that attorneys' fees and costs, which are incurred to enforce the provisions of such

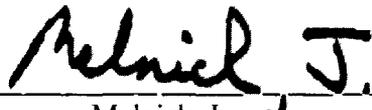
contract or lease, shall be awarded to one of the parties, the prevailing party. . . shall be entitled to reasonable attorneys' fees in addition to costs and necessary disbursements.

Clause 19 of the lease agreement states that in an action to enforce the agreement, the prevailing party shall recover reasonable attorney fees and costs. The trial court awarded the Krulls attorney fees and costs below.

Where a statute authorizes fees to the prevailing party, they are available on appeal as well as in the trial court. *Eagle Point Condo. Owners Ass'n v. Coy*, 102 Wn. App. 697, 716, 9 P.3d 898 (2000). The Krulls are entitled to an award of attorney fees on appeal, subject to their compliance with RAP 18.1. We deny Lawson's request for fees, costs, and damages.

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.



Melnick, J.

I concur:



Maxa, J.

BJORGEN, A.C.J. (dissenting) — The record, in my view, lacks substantial evidence to support the trial court’s finding that Daniel Krull’s threats in obtaining the lease addendum did not rise to the level of duress. For that reason, I would reverse.

As stated in the majority’s clear survey of legal principles, a party seeking rescission based on duress must prove by clear, cogent, and convincing evidence that the duress resulted from the other’s wrongful or oppressive conduct. *Retail Clerks Health & Welfare Trust Funds v. Shopland Supermarket, Inc.*, 96 Wn.2d 939, 944, 640 P.2d 1051 (1982); *In re Welfare of J.N.*, 123 Wn. App. 564, 576-77, 95 P.3d 414 (2004). The mere fact that a contract is entered into under stress or pecuniary necessity is insufficient, *Retail Clerks*, 96 Wn.2d at 944, as is “the mere threat to exercise a legal right made in good faith.” *Pleuss v. City of Seattle*, 8 Wn. App. 133, 137, 504 P.2d 1191 (1972).

Krull’s intimidation went well beyond a good faith threat to exercise any legal right, such as eviction. Instead, according to Aiko Lawson’s response to eviction summons, presented as a sworn declaration, Krull stated that “unless the Plaintiff agreed to the lease revision, he would ‘blacklist’ her at every rental property/agency within Vancouver.” Clerk’s Papers (CP) at 24-25. Krull stated further that “unless the Plaintiff agreed to the lease revision, he would make her life miserable, have her evicted and make her broke and homeless,” concluding, “It is my way or the highway.” CP at 25. Lawson stated that she “felt she had no choice but to sign the new lease because even if she tried to fight it in court, the Plaintiff had made it clear he would destroy her outside of the court in regards to the ability to obtain another rental.” CP at 25.

Lawson’s declaration also contains an attachment C, which she characterizes as “[a] synopsis/recollection of some of the conversations between the Plaintiff and Defendant.” CP at

25. Those include the following statements by Krull to Lawson on May 15, 16, 17 and 19, 2014, apparently part of text message exchanges between the two.

You don't tell me what to do!! It is my way or the highway. If you don't accept redoing the lease agreement to what I want I will make sure you are homeless.

I will blackball you to every housing unit in Vancouver. No one will ever rent to you again!!!

You can try and fight me Aiko but I will win and I will evict you and make it impossible to get another place to rent!!

I don't care what is hard for you or not. I want it changed and you will either do what I say or you can just start packing. Either way I am going to ruin you!!!!!!!

I will start eviction proceedings against you and make sure you are blacklisted on every rental agency in Vancouver!!!!

You either do what I tell you and sign a new lease or you can try to fight the eviction (but you will lose) and if you fight it I will make it impossible for you to rent anywhere else.

I can do whatever I f[*****] please Aiko!! You will be out and you will find it impossible to rent anywhere else! Sign a new lease or you are out!!

CP at 31-34.

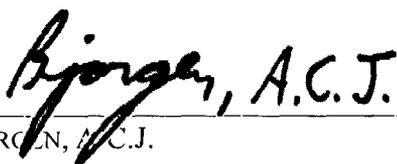
While the law may not provide a remedy against every bully, it does allow rescission of an agreement for duress when intimidation rises to a level that deprives the target of her free will. *See Retail Clerks*, 96 Wn.2d at 944-45. Threats by a landlord to blacklist the tenant with every rental agency in the city, to make sure she is homeless, and to ruin her if she does not sign the new lease are not merely boorish, but are directly coercive. Their intimidation was heightened by Lawson's own financial straits and loss of income due to pneumonia. Although stress or pecuniary necessity may be insufficient to establish duress, *see Retail Clerks*, 96 Wn.2d at 944, it is surely one of the surrounding circumstances and personal characteristics that may be

considered. *See State ex rel. Bradford v. King County*, 197 Wash. 393, 400-01, 85 P.2d 670 (1938). Krull's threats constituted wrongful and oppressive conduct that effectively deprived Lawson of her free will in the matter. Under the principles set out in the majority opinion, those threats created duress.

The only real evidence to the contrary lies in the inference that Lawson was not forced to sign the addendum, because she always had the option to move out. Krull's threats, however, were that if she did not sign, he would blacklist her and make her homeless. Not signing and instead moving out was hardly a realistic option, then, because Krull's statements could reasonably be interpreted to threaten homelessness if she did so. More to the point, if a tenant's ability to move out removes the duress from threats as coercive as these, then little will remain of the defense of duress in the landlord tenant setting. To preserve that defense, a tenant's right to hazard the streets cannot neutralize this sort of coercion.

The majority also notes that Lawson was able to obtain a loan to pay rent and penalties she owed at the end of May. The ability to obtain a loan for one month, however, says nothing about her ability to obtain future needed loans. In addition, the option of descending further into debt to meet the earlier deadline demanded by Krull hardly removes the coercion accompanying that demand.

Without engaging in the weighing of evidence, the record lacks evidence sufficient to persuade a fair-minded person of the truth of the trial court's finding of no duress. Therefore, the trial court's decision should be reversed.



BJORGEN, A.C.J.

**Denial of Motion for Reconsideration
Filed 2-4-2016**

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

DANIEL KRULL and
MAUREEN KRULL,

Respondents,

v.

AIKO LAWSON,

Appellant.

No. 47188-4-II

ORDER DENYING MOTION FOR
RECONSIDERATION

STATE OF WASHINGTON
BY  DEPUTY
2016 FEB -4 PM 1:22

FILED
COURT OF APPEALS
DIVISION II

APPELLANT moves for reconsideration of the Court's **January 12, 2016** opinion.

Upon consideration, the Court denies the motion. Accordingly, it is

SO ORDERED.

PANEL: Jj. Bjorgen, Melnick, Maxa

DATED this 4th day of February, 2016.

FOR THE COURT:


PRESIDING JUDGE

Aiko Lawson
4003 NE 141st Avenue
Vancouver, WA 98682
LawsonA@wsdot.wa.gov

Robert E. L. Bennett
Attorney at Law
1614 Washington St
Vancouver, WA 98660-2952
bob@rbennettlaw.com

Exhibit 1-Lease Agreement

Residential Lease

Clause 1. Identification of Landlord and Tenant

This agreement is entered into between AIKO LAWSON [Tenant] and DANIEL & MAUREN KRULL [Landlord]. Each Tenant is jointly and severally liable for the payment of rent and performance of all other terms of this Agreement.

Clause 2. Identification of Premises

Subject to the terms and conditions in this Agreement, Landlord rents to Tenant, and Tenant rents from Landlord, for residential purposes only, the premises located at 2911 NE 97TH AVE, VANCOUVER WA 98662 together with the following furnishings and appliances: WASHER, DRYER, REFRIGARATOR, FIRE PIT WOOD BURNER. Rental of the premises also includes SHED, AND RANGE.

Clause 3. Limits on Use and Occupancy

The premises are to be used only as a private residence for Tenant(s) listed in Clause 1 of this Agreement, and the following minor children: TRISTAN LAWSON. Occupancy by guests for more than 30 DAYS is prohibited without Landlord's written consent and will be considered a breach of this Agreement.

Clause 4. Term of the Tenancy

The term of the rental will begin on APRIL 15 2014, and end on APRIL 14 2015. If Tenant vacates before the term ends, Tenant will be liable for the balance of the rent for the remainder of the term.

Clause 5. Payment of Rent.

Regular month rent

Tenant will pay to Landlord a monthly rent of \$ 1250.00, payable in advance on the ^{TENTH} ~~first~~ day of each month, except when that day falls on a weekend or legal holiday, in which case rent is due on the next business day. Rent will be paid to DANIEL KRULL at VANCOUVER BRANCH, BANK OF AMERICA at such other place as Landlord designates.

Delivery of Payment.

Rent will be paid:

by mail, to _____

in person, at VANCOUVER WA BRANCH, BANK OF AMERICA, 4TH FLOOR LOCATION

Form of payment.

Landlord will accept payment in these forms:

personal check made payable to DANIEL KRULL

cashier's check made payable to DANIEL KRULL

credit card

money order

cash

EXHIBIT "A"

Prorated first month's rent.

MAY 9TH 2014

For the period from Tenant's move-in date, APRIL 15 2014, through ~~the end of the month~~, Tenant will pay to Landlord the prorated monthly rent of \$ 1029.46. This amount will be paid on or before the date the Tenant moves in.

Clause 6. Late Charges

If Tenant fails to pay the rent in full before the end of the FIFTH day after it's due, Tenant will pay Landlord a late charge of \$ 105, plus \$ 0 for each additional day that the rent remains unpaid. The total late charge for any one month will not exceed \$ 105. Landlord does not waive the right to insist on payment of the rent in full on the date it is due.

Clause 7. Returned Check and Other Bank Charges

If any check offered by Tenant to Landlord in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment," or any other reason, Tenant will pay Landlord a returned check charge of \$ 35.

Clause 8. Security Deposits

On signing this Agreement, Tenant will pay to Landlord the sum of \$ 1250.00 as a security deposit. Tenant may not, without Landlord's prior written consent, apply this security deposit to the last month's rent or to any other sum due under this Agreement. Within SEVEN DAYS after Tenant has vacated the premises, returned keys, and provided Landlord with a forwarding address, Landlord will give Tenant an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by Landlord, along with a check for any deposit balance.

Clause 9. Utilities

tenant will pay all utility charges, except for the following, which will be paid by Landlord:

ALL UTILITIES WILL BE PAID BY TENANT.

Clause 10. Assignment and Subletting

Tenant will not sublet any part of the premises or assign this Agreement without the prior written consent of Landlord.

Clause 11. Tenant's Maintenance Responsibilities

Tenant will: (1) keep the premises clean, sanitary, and in good condition and, upon termination of the tenancy, return the premises to Landlord in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Landlord of any defects or dangerous conditions in and about the premises of which Tenant becomes aware; and (3) reimburse Landlord, on demand by Landlord, for the cost of any repairs to the premises damaged by Tenant or Tenant's guests or business invitees through misuse or neglect.

Tenant has examined the premises, including appliances, fixtures, carpets, drapes, and paint, and has found them to be in good, safe, and clean condition and repair, except as noted in the Landlord-Tenant Checklist.

Clause 12. Repairs and Alterations by Tenant

- a. Except as provided by law, or as authorized by the prior written consent of Landlord, Tenant will not make any repairs or alterations to the premises, including nailing holes in the walls or painting the rental unit.
- b. Tenant will not, without Landlord's prior written consent, alter, rekey, or install any locks to the premises or install or alter any burglar alarm system. Tenant will provide Landlord with a key or keys capable of unlocking all such rekeyed or new locks as well as instructions on how to disarm any altered or new burglar alarm-system.

Clause 13. Violating Laws and Causing Disturbances

Tenant is entitled to quiet enjoyment of the premises. Tenant and guests or invitees will not use the premises or adja-

cent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession, or sale of illegal drugs; (2) commit waste (severe property damage); or (3) create a nuisance by annoying, disturbing, inconveniencing, or interfering with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.

Clause 14. Pets

No animal, bird, or other pet will be kept on the premises, even temporarily, except properly trained service animals needed by blind, deaf, or disabled persons and Bene 102 X under the following conditions:

\$300. Pet Deposit TO BE PAID BY MAY 31 2014.

Clause 15. Landlord's Right to Access

Landlord or Landlord's agents may enter the premises in the event of an emergency, to make repairs or improvements, or to show the premises to prospective buyers or tenants. Landlord may also enter the premises to conduct an annual inspection to check for safety or maintenance problems. Except in cases of emergency, Tenant's abandonment of the premises, court order, or where it is impractical to do so, Landlord shall give Tenant THREE DAYS notice before entering.

Clause 16. Extended Absences by Tenant

Tenant will notify Landlord in advance if Tenant will be away from the premises for 14 or more consecutive days. During such absence, Landlord may enter the premises at times reasonably necessary to maintain the property and inspect for needed repairs.

Clause 17. Possession of the Premises

a. *Tenant's failure to take possession.*

If, after signing this Agreement, Tenant fails to take possession of the premises, Tenant will still be responsible for paying rent and complying with all other terms of this Agreement.

b. *Landlord's failure to deliver possession.*

If Landlord is unable to deliver possession of the premises to Tenant for any reason not within Landlord's control, including, but not limited to, partial or complete destruction of the premises, Tenant will have the right to terminate this Agreement upon proper notice as required by law. In such event, Landlord's liability to Tenant will be limited to the return of all sums previously paid by Tenant to Landlord.

Clause 18. Tenant Rules and Regulations

Tenants acknowledge receipt of, and have read a copy of, tenant rules and regulations, which are labeled Attachment A and attached to and incorporated into this Agreement by this reference.

Clause 19. Payment of Court Costs and Attorney Fees in a Lawsuit

In any action or legal proceeding to enforce any part of this Agreement, the prevailing party

shall not / shall recover reasonable attorney fees and court costs.

Clause 20. Disclosures

Tenant acknowledges that Landlord has made the following disclosures regarding the premises:

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Other disclosures:

Exhibit 2-Lease Addendum

ADDENDUM TO RESIDENTIAL LEASE AGREEMENT

THE ADDENDUM TO RESIDENTIAL LEASE AGREEMENT (the "Addendum") is entered into this 30th day of May, 2014 between DANIEL KRULL ("Lessor") and AIKO LAWSON ("Lessee") to that Residential Lease Agreement dated April 15, 2014, between Daniel Krull and Maureen Krull, Lessors and Aiko Lawson, Lessee.

The following provisions are made part of said Addendum:

NOW, THEREFORE for and in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agrees as follows, intending their agreements to be made under seal:

*added
after
signing*

1. Payment of Rent: Lessee shall pay monthly rent in the sum of \$1250.00 on or before the first day of each month to Lessor in the manner set forth in the Residential Lease Agreement.

2. Late Charge. If the Lessor has not received the payment of rent in full by the end of the third day of the month, Lessee will pay a late charge to the Lessor in the flat rate amount of \$105.00 plus \$25.00 per day thereafter until rent is paid in full.

3. Receipt of Past Due Amounts: Lessor acknowledges payment from Lessee for the following amounts due:

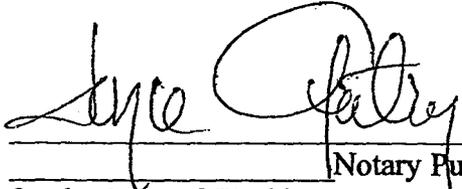
May 10, 2014 – June 9, 2014 Late Rent:	\$1250.00
May, 2014 Late Fee:	\$ 105.00
June 10, 2014 – June 30, 2014 Pro-rate Rent:	\$ 875.00

STATE OF WASHINGTON)
 : ss.
County of Clark)

I hereby certify that I know or have satisfactory evidence that Aiko Lawson is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

DATED this 25th day of May, 2014.





Notary Public in and
for the State of Washington.
My Commission Expires: 3-1-2018

**Exhibit 4-Transcript of Text Messages Between
Daniel Krull and Aiko Lawson**



Date	Time	To	From	Direction	
5/15/2014	3:02 PM	360-606-6734	360-448-9858	Sent	Daniel, it is Aiko. I am awfully sorry and realize it doesn't make a good first impression but I can't pay the rent until Saturday the 17th.
5/15/2014	3:34 PM	360-448-9858	360-606-6734	Received	What the hell??!! You just moved in and you are already late??!!
5/15/2014	3:36 PM	360-606-6734	360-448-9858	Sent	I'm sorry. I paid a deposit to you and thought I would have my deposit back from my last place by now. Having deposits tied up with two places really hurt plus I was off without pay because of my pneumonia.
5/15/2014	3:37 PM	360-448-9858	360-606-6734	Received	Goddamnit Aiko!
5/15/2014	3:38 PM	360-448-9858	360-606-6734	Received	I don't give a fuck how you get the money you owe us rent! Get it to us today or I will have you evicted!
5/15/2014	3:46 PM	360-606-6734	360-448-9858	Sent	I will have it in your account on Saturday. If you really need the money now you have my permission to use my deposit and just replace with the rent money when it is paid. I could pay \$1,000 now but won't have the rest until Saturday.

Attachment C

5/15/2014	3:46 PM	360-448-9858	360-606-6734	Received	The hell you will! I will not accept it or I will turn around and mail it back to you! I gave you the courtesy of having the rent due on your payday. From now on it will be due on the 1st of the Month and that is only if you pay it today! We depend on that money to make our mortgage!
5/15/2014	4:01 PM	360-606-6734	360-448-9858	Sent	I can't pay you what I don't have. Why can't you use the deposit money. You have my permission with the caveat that it would be replaced on Saturday.
5/15/2014	4:13 PM	360-448-9858	360-606-6734	Received	That money is gone!! We are building a house and there were extra expenses so we depend on you paying your rent on time!! Here is what is going to happen Aiko. I will only accept your rent being paid on Saturday if you accept a new lease agreement paying the rent on the 1st of each month with no grace period, \$105 late fee and \$25 each day. Where the hell is my pet deposit also!??

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5/15/2014	4:19 PM	360-606-6734	360-448-9858	Sent	You can't do that! You can give me a 3 day notice if you want, but the rent will be paid before the end of that. You can't force me to accept a new due date or change the lease without my agreement? That's not my job! This is ridiculous! I gave you leeway when you couldn't get your stuff out by the date I was supposed to move in and you didn't even give me back the money I paid toward rent for those four days I couldn't move in!
5/15/2014	4:20 PM	360-448-9858	360-606-6734	Received	You don't tell me what to do!! It is my way or the highway. If you don't accept redoing the lease agreement to what I want I will make sure you are homeless.
5/15/2014	4:21 PM	360-448-9858	360-606-6734	Received	MY WAY OR THE HIGHWAY AIKO!!!
5/15/2014	4:22 PM	360-606-6734	360-448-9858	Sent	Please stop!!!
5/15/2014	4:23 PM	360-448-9858	360-606-6734	Received	You want to try and stop me from evicting you??!! I don't care if you pay it on Saturday, I will not accept it and you will be evicted!! It is my house, my rules!!
5/15/2014	4:25 PM	360-448-9858	360-606-6734	Received	I will blackball you to every housing unit in Vancouver. No one will ever rent to you again!!!
5/15/2014	4:28 PM	360-448-9858	360-606-6734	Received	You can try and fight me Aiko but I will win and I will evict you and make it impossible to get another place to rent!!
5/15/2014	4:28 PM	360-606-6734	360-448-9858	Sent	Please stop!!!
5/15/2014	4:30 PM	360-448-9858	360-606-6734	Received	NEVER!! Agree to it or start packing your boxes and get the hell out of my house!

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5/15/2014	6:04 PM	360-606-6734	360-448-9858	Sent	You told me the dog deposit I could pay you the end of May. I am pretty sure it is in the lease agreement that way.
5/15/2014	6:05 PM	360-448-9858	360-606-6734	Received	Bullshit!! I want my money now!!
5/15/2014	6:13 PM	360-448-9858	360-606-6734	Received	Go ahead Aiko. You better start packing now!!
5/15/2014	6:14 PM	360-606-6734	360-448-9858	Sent	Please stop!! I am turning my phone off now.
5/16/2014	4:45 PM	360-448-9858	360-606-6734	Received	My attorney is going to be drafting up new lease papers. You better be signing those or I will evict you.
5/16/2014	5:13 PM	360-606-6734	360-448-9858	Sent	This will cause a hardship for me because I already budgeted to make the rent payments on the tenth of each month! Please, please will you just let me pay today?? I can get it and drive up to Castle Rock??
5/16/2014	5:45 PM	360-448-9858	360-606-6734	Received	I don't care what is hard for you or not. I want it changed and you will either do what I say or you can just start packing!! Either way I am going to ruin you!! I told you already if you try and deposit the rent, I will not accept it and just mail it back to you. FUCK YOU!!!!!!!!!!
5/16/2014	5:48 PM	360-606-6734	360-448-9858	Sent	Please stop!! I am turning my phone off now!!
5/17/2014	10:06 AM	360-606-6734	360-448-9858	Sent	Please let me deposit the rent! I cannot afford to deposit it and have you send it back to me later as unaccepted.
5/17/2014	10:34 AM	360-448-9858	360-606-6734	Received	I will reject any deposit you make toward rent. You either agree to a new lease with MY terms or you can be evicted. Those are your only choices.

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5/17/2014	10:37 AM	360-606-6734	360-448-9858	Sent	So if I make the rent deposit today into your account what will happen?
5/17/2014	10:40 AM	360-448-9858	360-606-6734	Received	It will not count toward the rent. I will return it to you via mail within 30 days but on Monday I will start eviction proceedings against you and make sure you are blacklisted on every rental agency in Vancouver!!!!
5/17/2014	10:43 AM	360-606-6734	360-448-9858	Sent	You can't force me to sign a new lease!! You have to accept the rent payment! Please please stop this!!!
5/17/2014	10:48 AM	360-448-9858	360-606-6734	Received	I can do whatever I fucking please Aiko!! It is my house and if I want to evict you I will!! You either do what I tell you and sign a new lease or you can try to fight the eviction (but you will lose) and if you fight it I will make it impossible for you to rent anywhere else.
5/17/2014	11:02 AM	360-606-6734	360-448-9858	Sent	When do I have to let you know before you start trying to evict me?
5/17/2014	11:03 AM	360-448-9858	360-606-6734	Received	If I don't hear from you by 10 AM on Monday that you agree to a new lease then I will be driving down to my lawyers that day and starting eviction proceedings.
5/19/2014	9:07 AM	360-606-6734	360-448-9858	Sent	Daniel, you cannot force me to sign a new lease. Please don't do this!!!
5/19/2014	9:09 AM	360-448-9858	360-606-6734	Received	Goddamnit Aiko! I told you I wanted confirmation you were going to sign the new lease!! I am going to go to my lawyer's office now and have you evicted!!

5/19/2014	9:11 AM	360-606-6734	360-448-9858	Sent	On what grounds would I be evicted? I tried to pay you and you refused to accept!!! You can't just evict me or force me to new terms on a lease agreement!
5/19/2014	9:13 AM	360-448-9858	360-606-6734	Received	I can do whatever I fucking please Aiko!! You will be out and you will find it impossible to rent anywhere else! Sign a new lease or you are out!!
5/19/2014	9:16 AM	360-606-6734	360-448-9858	Sent	I already budgeted to pay rent on the tenth of each month! It will make me behind each month to try and change it to the first!!
5/19/2014	9:17 AM	360-448-9858	360-606-6734	Received	My way or you are out!! And what about the dog deposit!?!?
5/19/2014	9:20 AM	360-606-6734	360-448-9858	Sent	I reread the lease agreement. You said I had until May 31st to pay the dog deposit.
5/19/2014	9:24 AM	360-448-9858	360-606-6734	Received	Bullshit!! I want my money now!!
5/19/2014	9:26 AM	360-606-6734	360-448-9858	Sent	I have to go or I am going to get in trouble at work. I will call you back at 10.
5/19/2014	10:01 AM	360-606-6734	360-448-9858	Sent	What choice do I have?
5/19/2014	10:02 AM	360-448-9858	360-606-6734	Received	You sign a new lease agreement. Rent due on 1st, no grace period, \$105 late fee and \$25/day. You pay me the dog deposit now. Or you better start packing.

					So I have no choice do I? Either way you are going to either try and evict me or make it so I cannot rent anywhere else. What choice does I have?? NONE!! I will tell you though this makes me fall behind and I don't know how I can catch up if you change it to the first!! How much would I have to come up with over what is due for rent right now!?
5/19/2014	10:03 AM	360-606-6734	360-448-9858	Sent	
5/19/2014	10:05 AM	360-448-9858	360-606-6734	Received	I will get back to you.
5/19/2014	12:02 PM	360-448-9858	360-606-6734	Received	You would have to pay rent this month plus \$105 late fee. You would have to pay rent for next month from June 10th-June 30th, prorated to \$875. You would have to pay pet deposit. Total you would have to pay immediately is \$2,530. Rent would be due on 1st, no grace period, \$105 late fee and \$25/day.
5/19/2014	12:06 PM	360-606-6734	360-448-9858	Sent	Where am I supposed to come up with another \$1,175 right now?
5/19/2014	12:10 PM	360-448-9858	360-606-6734	Received	Not my problem Aiko!! Sign the new lease and bring that amount or I will evict you!!
5/19/2014	12:13 PM	360-606-6734	360-448-9858	Sent	Please can I have some kind of grace period? It is next to impossible to be able to deposit the rent in your account during work days.
5/19/2014	12:15 PM	360-448-9858	360-606-6734	Received	I will give you two days grace period.
5/19/2014	12:20 PM	360-606-6734	360-448-9858	Sent	Can I please call you back first thing in the morning? I have to try and see where I can get that kind of money right now. I also got a water bill beginning of May that is for your use during while you were still in the house.

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5/19/2014	12:22 PM	360-448-9858	360-606-6734	Received	I don't hear from you agreeing to what I said by 9AM TOMORROW then you will be out!! I paid the goddamn water bill when you moved in Aiko!! That is not my water bill.
5/19/2014	12:24 PM	360-606-6734	360-448-9858	Sent	You were over a month late on your water. You don't remember that they wouldn't put it in my name until you paid because you were almost two billing cycles late? You only paid the part that was past due but the rest became past due right after I moved in. So this bill is half yours. Couldn't you pay half of your half?
5/19/2014	12:26 PM	360-448-9858	360-606-6734	Received	You want to mail it to me then mail it to me but I am going to have to spend money on my lawyer why the fuck should I have to pay the water bill too!
5/19/2014	12:28 PM	360-606-6734	360-448-9858	Sent	You are the one forcing me to a new lease agreement. If you would just leave it as we agreed you wouldn't have to pay lawyer fees and I will mail you the water bill so you can check it out.
5/19/2014	12:29 PM	360-448-9858	360-606-6734	Received	Okay Aiko, you are just pissing me off now. Either you agree to a new lease or you are out!! I don't want to hear anything more from you except yes, you will agree to it. Tomorrow morning I will be at my lawyer's office getting you evicted!!

5/20/2014	8:45 AM	360-606-6734	360-448-9858	Sent	I will tell you right now if I have to do this it will just make it so I am late every month. I will have to take payday loans the rent up ahead of what it was supposed to be and I absolutely positively cannot pay that extra amount until after my payday on the 25th and prefer to do it on Friday the 30th as I already had to take several days off without pay because of my pneumonia. I could pay \$1355 now if you want and the rest on the 30th.
5/20/2014	8:55 AM	360-448-9858	360-606-6734	Received	If you are late every month you will have to pay the late fees and I will give you a 3 day notice every time you are late!!! I will get back to you if that date of the 30th is acceptable.
5/20/2014	1:03 PM	360-448-9858	360-606-6734	Received	My lawyer said not to accept a partial payment. The entire amount of \$2,530 will be due the morning of the 30th, you sign a new lease agreement or my lawyer will be in court that afternoon to make sure you are evicted.
5/20/2014	1:07 PM	360-606-6734	360-448-9858	Sent	Ok. Guess I have no choice. Can I at least pay half into your account each payday as I don't make enough in any one paycheck to cover the rent.
5/20/2014	1:09 PM	360-448-9858	360-606-6734	Received	We would agree to that only if you agree to have the rent raised to \$1400.

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5/20/2014	1:10 PM	360-448-9858	360-606-6734	Received	You have a choice Aiko. You do what I tell you and you sign the new lease, pay what you need to or I evict you. We also took pictures of the house so any damage we will come after you and you will have to pay all the lawyer fees also!!
5/20/2014	1:13 PM	360-606-6734	360-448-9858	Sent	I can't do that! I have already had to take time off without pay for my medical issues. I have no choice I guess as I don't have the time to take off nor the energy to fight you and the courts are pro-landlord anyhow. This is forcing me to do what I don't want to and what will put me even further behind!! I guess I have no choice. You won't accept my rent payment so what other option do I have? I will be at your lawyer's office to sign the papers by the end of the month.
5/30/2014	10:02 AM	360-606-6734	360-448-9858	Sent	I signed the papers. I paid the \$2,530. I want it noted that I felt I had no choice. I also mailed you the water bill.

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FILED
COURT OF APPEALS
DIVISION II

2016 FEB 29 AM 9:18

STATE OF WASHINGTON

BY _____
DEPUTY

No. 47188-4-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

Superior Court Case No. _14-2-03485-1

DANIEL KRULL and MAUREEN KRULL,

Plaintiffs/Respondents,

v.

AIKO LAWSON,

Defendant/Appellant

Certificate of Service
PETITION FOR REVIEW

CERTIFICATE OF SERVICE

I, Owen Wilken, certify under penalty of perjury under the laws of the State of Washington that, on the date stated below, I did the following:

1. I am not a party to the above-entitled action or interested therein.
2. I am a resident of the State of Washington and over the age of 18 years, and I am otherwise competent in all ways to be a witness herein.

I served the following:

1. PETITION FOR REVIEW

The papers were served by dropping a copy in the mail on the date this was signed to:

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2. Completion of this service was as of end of the business day on February 25th, 2016

DATED at Vancouver, Washington, this 25th of February 2016. Cheryl Wilson