

STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW DOCKET NO. CUM-26-38

BREE A. BLALOCK, ET AL

Appellee

V.

BIRCHLANE, LLC

Appellant

ON APPEAL FROM THE CUMBERLAND COUNTY DISTRICT COURT
Docket No. SC-2024-44, SC-2024-156

APPELLANT'S REPLY BRIEF

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STATEMENT OF THE ISSUES

- I. Whether Ms. Blalock's argument that Birchlane's premises were "uninhabitable" has merit, and therefore there was no meeting of the minds.
- II. Whether Blalock's argument that she is entitled to judgment under the theory of unjust enrichment is supported by the evidence, and the Court's findings after Remand were not an abuse of discretion.

ARGUMENT

I. Blalock's (the Appellee) argument regarding the condition of the premises is without merit.

Ms. Blalock first argues that the premises were “uninhabitable”, as a reason for not taking occupancy of her leased premises, but then argues that she is entitled to a refund of her prepaid security deposit and pro-rata rent because the parties were “still negotiating” the Lease on the move-in date, when she appeared with her child and mother and a U-Haul, to move into her premises. Which was it, uninhabitability or still in negotiating status?

Importantly but not surprisingly—because there is no merit or findings as to the allegation of “uninhabitability” of the unit—Blalock never follows through or raises any legal and factual arguments regarding how the property was uninhabitable under the legal definition or case law. Blalock simply argues alternatively--following the same logic as the Small Claims Judge--that the parties were still negotiating a contract and there was no Lease. At page 79 of the Appendix, this Court can see a picture that shows there were no “gaping holes” in the wall, but simply space around an exhaust vent-

pipe located some 5 feet above ground, to vent an unoccupied utility closet for the water heater. The height above ground and the small area around the vent pipe does not allow small animals to enter the premises, and significantly, the water heater which vent pipe was connected to, was located in a very small closet, not occupied as living space within the rented unit. Some bugs or spiders might have been in the unit, but, as testified, the cleaning person was in the process of cleaning and removing the bugs when Ms. Blalock showed up early in the morning. These issues, nonetheless do not make the unit uninhabitable. There was no CEO or other health official determination of uninhabitability, nor any indication that some minor surface mold was toxic and throughout the unit. This was simply an excuse by Ms. Blalock to chose not to occupy the unit she leased under her contract.

Significantly, both Blalock and her attorney *admit* she signed a Lease in his “Statement of the Case”, as he states:

“In July of 2023, Appellee, Bree Ana Blalock (“Blalock”), sought to rent an apartment in Portland from Appellant, Birchlane, LLC (“Birchlane”), and on July 28, 2023, she paid Birchlane \$1,612.90 in prorated rent for the month of August and \$2,000.00

as a security deposit. (See Hearing Transcript (“HT”) at 11:1 to 11:5). Julianne Majewski (“Majewski”) served as the co-signer for the lease. (HT at 12:7 to 12:11) (Appendix (“App.”) at 37).”

This is *an admission* that a Lease was signed and consideration paid by Ms. Blalock in the form of the security deposit and prorated rent. There can be no unjust enrichment under the facts of this case, when, as here, Ms. Blalock admits that she signed a Lease. Nor can the status of the unit as uninhabitable, transfer Ms. Blalock’s contract claim to an unjust enrichment claim. There can be no ‘continuing negotiations’ and no contract or Lease, when Ms. Blalock already paid the rent and signed the Lease on July 28, and had an August 7 move-in date. Changing the move-in date only would allow her to obtain a credit for the prorata rent paid. Ms. Blalock secured the apartment and bound Birchlane to this Lease, and to renting her the premises previously inspected and approved by her aunt and uncle. A Lease *is a contract*. Ms. Blalock herself, testified at HT P. 6:14-27, under oath, that “I signed a Lease”. Under this testimony and admitted exhibits, it is a clear abuse of discretion for a Court to find that no Lease was signed, and that there was no meeting of the minds, and

hence, no contract. The Court's findings of "continuing negotiation" are not supported by the evidence or testimony of both parties, and their admissions into evidence of the signed Lease, both from Ms. Blalock and Birchlane. There was a clear meeting of the minds, as the price was identified, the parties to the Lease were identified, the premises were identified, and the term of the Lease was identified.

Blalock argues that pushing back the move-in date from August 7 to a later date destroys or vitiates the executed Lease. Changing the move-in date at the request of Ms. Blalock has no effect on the signed and executed contract. She still required the apartment to be available to her, and only her, on a different move-in date, but did not request to terminate the Lease or contract. The presence of the cleaning person in the apartment had no effect on the binding Lease between the parties, in spite of Ms. Blalock's attorney's arguments to the contrary. Every element of a contract was present.

Blalock's attorney intentionally misleads this Court when he claimed in his Brief:

"The representative also indicated that there would be no issue canceling the lease since Blalock never received keys and never moved in. (HT 10:4 to 10:16.)."

What he failed to include in his Brief was the following phrase which continued the above statement:

“, but that he would still have to talk to the owner.” (HT P.10:6-8).

The Court then asked Ms. Blalock:

“So what—slow down. What was your response to him when he said that?”

Ms. Blalock: “I said yes, please talk to the owner and let me know.” (HT P. 10:13-14).

The above testimony clearly shows that there was no cancellation of the Lease but only an offer to talk to the owner.

II. Blalock's argument that she is entitled to judgment under the theory of unjust enrichment is not supported by the evidence, is capricious and the Court's findings are an abuse of discretion.

In spite of the fact that a contract existed between the parties, Blalock's attorney argues, (1) that Blalock conferred a benefit on Birchlane in the form of prepaid rent and a security deposit, (2) that Birchlane had an appreciation or knowledge of the benefit, and (3) acceptance or retention of the benefit was under circumstances that make it inequitable for Birchlane to retain the benefit without payment of its value, and therefore unjust enrichment is appropriate.

Ms. Blalock's attorney argues that *it is not unjust nor inequitable* for Birchlane to keep the prepaid money when the premises are "habitable". In this case, the minor defects at her early morning appearance on move-in date, do not make the premises uninhabitable, and there was no lower court finding that the premises were "uninhabitable". The cleaning person had not even finished cleaning when Ms. Blalock arrived to move into her leased apartment. Nor were there any terms or conditions in her payment or the Lease, or any other evidence introduced that left the

Lease conditional or contingent upon her “walk through” on the move-in date. (HT P. 34-35).

Significantly Ms. Blalock had a Lease which provided her a mechanism to correct any maintenance and cleaning issues. (App. P. 54). ¶(a) states at the bottom, “Prior to, and immediately upon taking possession of the demised premises, Lessee shall identify in writing to Lessor with express reference to this Section 7(a), any aspect of the demised premises that is not in good, clean or satisfactory condition. Lessee’s failure to identify any such condition shall constitute Lessee’s confirmation that the demised premises were, at the beginning of the term, in good, clean and satisfactory condition.”

This paragraph of the executed Lease does not allow or state that the Lease is void, that a Lease does not exist, or provide the Lessee who has already signed the Lease, an option to terminate the Lease and demand a refund.

In addition, ¶28 of the Lease (App. P. 61) states: “All maintenance issues are to be reported in writing to the Lessor via email [...]”.

Ms. Blalock could have demanded and required all maintenance and cleaning issues to be resolved under the Lease pursuant to two separate paragraphs, but chose not to comply with the Lease and ignored both paragraphs. (HT P. 42:4-18). She testified that she was not barred from being in the premises, but simply chose not to stay there or take possession. (HT P. 42:18-25, 43:1). Ms. Blalock's testimony contradicts the Court's findings and her argument that she was not provided possession, when she clearly was allowed possession.

Birchlane's representative testified (HT P. 46:19-25, 47:1-17) that the Lease was not contingent or conditional, that no walk-through inspection was part of the negotiations, and that "If we sign a Lease, it is set in stone." [...]

Question to Birchlane's representative: "So, when you sign a lease, what happens with the listing?"

Answer: "The listing will typically come down, and we will stop marketing the unit. Again, I have multiple properties so if it doesn't come down the moment the lease is signed, you know, that—that's not unimaginable."

Based upon this testimony, Ms. Blalock's attorney misstated the obvious and argued at pages 13 and 14 of his brief that Birchlane never was damaged since Birchlane was still actively advertising the apartment and incurred no brokerage fees.

After Ms. Blalock signed the Lease, Birchlane took the apartment off the market to its detriment, and held it for Ms. Blalock exclusively, incurring lost rental income as damages. After she chose to walk away from her contract, Birchlane was forced to pay for additional advertising and pay another commission. (App. P. 75-76, Mr. Arroyo's email to Ms. Blalock).

It is not inequitable for Birchlane to retain the benefit (payment of rent), as Birchlane provided a value and benefit to Ms. Blalock, to Birchlane's detriment. No matter how one views the evidence, the equities are clearly in favor of Birchlane and against Ms. Blalock, if there were no contract or Lease.

There is no issue that a contract exists between the parties. The District Court Judge, after remand, claimed that the parties were still negotiating and that there was no meeting of the minds. This conclusion is contrary to the terms of the executed Lease, the facts and evidence, and a clear error of Law without evidentiary

support, and constitutes an abuse of discretion. (HT P. 49:21-25, 50:1-11).

There were no continuing Lease negotiations on the move-in date as wrongly stated by the District Court. (HT P. 46:19-25, 47:1-3). Blalock did not show up to continue negotiating the Lease on August 7th, but to move in, in accordance with her executed Lease terms. (HT P. 31:13-16).

CONCLUSION

The District Court's judgment after Remand is "*arbitrary, capricious and unreasonable*", insufficient as a matter of law, and shows plain error in its Decision. The Findings of Facts and conclusions of law after Remand are not supported by the evidence.

Dated: July 9, 2026

Respectfully submitted,

/s/ Neal L. Weinstein
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CERTIFICATE OF SERVICE

I, Neal L. Weinstein, hereby certify that on this date a true copy of the Appellant's Reply Brief was served upon counsel at the address set forth below by electronic mail pursuant to M.R.Civ.P. 5:

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