

Plaintiff's Memorandum in Support of Eviction Complaint

CASE REVIEW SUMMARY

Property Dispute at 6122 N Winthrop Ave Unit C, Chicago, IL 60660

This eviction case stems from a tenant's refusal to vacate the premises following proper notice under Section 5-12-130(j) of the Chicago Residential Landlord and Tenant Ordinance (CRLTO), coupled with documented denial of lawful property access in violation of Section 5-12-050. The dispute involves a licensed real estate professional who has demonstrated a pattern of deliberate non-compliance with legal requirements despite his professional knowledge of applicable laws.

I. LEGAL BASIS FOR EVICTION

A. Proper Termination of Tenancy Under CRLTO Section 5-12-130(j)

Property owner Brandon McGivern properly served a 60-Day Notice to Vacate on March 18, 2025, in full compliance with Section 5-12-130(j) of the CRLTO, which explicitly permits termination of tenancies between six months and three years with 60 days' notice. No cause is required under this section. The notice established May 17, 2025, as the required vacancy date. The tenant has failed to vacate by this date, creating an unlawful holdover tenancy.

B. Unlawful Denial of Access Under CRLTO Section 5-12-050

The tenant has repeatedly denied the owner lawful access to the property in direct violation of Section 5-12-050 of the CRLTO, which states that "a tenant shall not unreasonably withhold consent to the landlord to enter the dwelling unit." Most egregiously, on May 10, 2025, the tenant refused a pre-scheduled inspection attempt that had been coordinated 10 days in advance and previously acknowledged by the tenant's attorney as "not an issue" in writing. This refusal was documented by Chicago Police (Event #2513009537).

C. Electronic Access Obstruction

The tenant has maintained exclusive control of the electronic security system and changed entry codes without providing the owner updated access credentials, effectively barring the owner from his own property. This action violates both the spirit and letter of Section 5-12-050 and represents an improper attempt to exercise exclusive possession against the legal owner's rights.

II. NATURE OF THE TENANCY

A. Month-to-Month Rental Arrangement

The tenant's occupancy is properly characterized as a standard month-to-month tenancy, not an installment sales contract or "rent-to-own" arrangement. This distinction is critical because:

1. No written contract for the sale of land was ever executed, as required by the Illinois Statute of Frauds (740 ILCS 80/2)
2. Monthly payments were explicitly for occupancy only, not equity accumulation
3. The tenant expressly acknowledged the separate nature of the rental arrangement and potential future purchase in his communication of February 14, 2025
4. The tenant, as a licensed real estate agent, would have professional knowledge of the requirements for creating a valid installment sales contract under Illinois law

B. Below-Market Rent Based on Purchase Agreement

The tenant received substantial benefit through below-market rent:

- Tenant paid \$1,200-\$2,080 monthly for a property with documented market rental value of a minimum of \$2,500/month
- Comparable properties in the immediate vicinity command rents of:
 - 5740 N Sheridan Rd Unit 12C: \$2,800/month
 - 1244 W Devon Ave Unit 1246-23: \$3,300/month
 - 6161 N Kenmore Ave Apt 1N: \$4,000/month
- This preferential rent was explicitly conditioned on the tenant's commitment to purchase the property following the sale of his condominium
- The tenant's continued acceptance of below-market rent after failing to purchase the property constitutes unjust enrichment

III. BREACH OF PURCHASE AGREEMENT

A. Tenant's Failure to Complete Purchase

The verbal agreement between owner Brandon McGivern and tenant Kyle Hadley in June 2022 explicitly conditioned the tenant's occupancy on his commitment to purchase the property after the sale of his condominium. The tenant's condominium sold on October 27, 2023, for

\$278,500, yet no purchase of the subject property occurred. On February 14, 2025, the tenant expressly acknowledged his inability to secure financing within the next four months, confirming material breach of the fundamental agreement.

B. Property Valuation

The original verbal agreement contemplated a 2022 purchase price of \$320,000. Current market value as of 2025 is appropriately adjusted to \$410,000 based on:

- Documented sale of 5320 N Kenmore Ave Unit O on January 15, 2025 for \$510,000
- Documented sale of 1043 W Winona St on March 19, 2025 for \$419,000
- Documented sale of 6042 N Kenmore Ave #2 on February 14, 2025 for \$386,500

C. Financial Contributions Properly Characterized

The tenant made three \$10,000 payments (March, May, and June 2024) explicitly toward a potential future purchase, not as equity interest in the property. These payments were accepted as deposits toward a potential future closing, contingent upon:

1. Formal execution of a written purchase agreement
2. Securing proper financing
3. Completion of a closing transaction

These contingencies were never satisfied, as acknowledged by the tenant in his February 14, 2025 communication.

IV. TENANT'S BAD FAITH ACTIONS

A. Professional Knowledge as Licensed Real Estate Agent

The tenant, Kyle Hadley, is a licensed real estate professional who markets himself as "Kyle Sells Chicago" (@KyleSellsChi). His professional status establishes that he has:

1. Specialized knowledge of real estate transactions and requirements
2. Professional understanding of landlord-tenant laws
3. Fiduciary duty standards under Illinois real estate licensing regulations
4. Training regarding proper handling of property access and tenancy termination

B. Documented Pattern of Obstruction

The tenant has demonstrated a consistent pattern of obstruction and bad faith:

1. Avoidance of legal service, evidenced by failure to claim certified notices despite delivery attempts

2. Strategic non-communication with extended periods of non-response followed by evasive replies
3. Technological obstruction by revoking owner's access to security systems and blocking communication channels
4. Threatening and abusive communication, including documented profanity in text messages
5. Explicit written intent (through attorney correspondence dated April 22, 2025) to remain in the property beyond the legally established vacancy date as leverage for financial demands: "I will vacate the property by 7/31, only after my money is returned to me"

V. UNAUTHORIZED PROPERTY MODIFICATIONS

A. Unauthorized Appliance Replacements

The tenant made unauthorized modifications to the property without consent:

1. Replacement of a functioning central air conditioning unit (estimated value \$3,500) with a new unit costing \$7,075
2. Disposal of a functioning washer and dryer set (estimated value \$1,000) and replacement with new units costing \$2,142.28
3. Tenant originally claimed these improvements cost \$10,127 but provided documentation showing only \$9,217.28

B. Disposal of Owner's Property

The tenant disposed of functioning appliances that were the owner's property without consent or compensation, constituting conversion of personal property under Illinois law.

VI. SETTLEMENT ATTEMPTS

Multiple settlement discussions through the tenant's attorney, Mason Cole, have failed to result in compliance with the legally established vacancy date. The owner has consistently maintained willingness to address financial matters following proper vacancy and inspection but has been prevented from conducting a necessary property assessment due to the tenant's refusal of access.

The tenant's counteroffer on May 12, 2025, proposed:

1. Extending occupancy 45 days beyond the legal notice period (to June 30, 2025)
2. Demanding return of \$30,000 by July 31, 2025
3. Demanding return of \$12,000 for fixtures by August 31, 2025 (increased from documented \$9,217.28)

This proposal demonstrates continued bad faith negotiation and attempts to leverage unlawful holdover for financial advantage.

VII. DAMAGES CALCULATION

A. Current Damages

1. Difference between paid rent and fair market rent from December 2024 to May 17, 2025:
 - $\$2,500$ (market) - $\$2,080$ (paid) = $\$420/\text{month} \times 5.5$ months = $\$2,310$
2. Costs for travel and arrangements for inspection attempts: $\$500$

B. Ongoing Damages

1. Daily holdover penalty rate (double normal rental value) from May 18, 2025:
 - $\$2,500 \times 2 \div 30$ days = $\$166.67$ per day
2. Legal fees, court costs, and travel costs related to eviction proceedings
3. Potential lost rental income during property restoration period following vacancy

VIII. REMEDIES SOUGHT

1. Immediate possession of the property
2. Judgment for damages related to holdover period at double the rental rate
3. Set-off against tenant's $\$30,000$ payment for documented damages and below-market rent benefit
4. Court costs and reasonable attorney's fees

CRITICAL TIMELINE OF EVENTS

Property Address: 6122 N Winthrop Ave Unit C, Chicago, IL 60660

Initial Agreement and Occupancy

- **February 12, 2022:** Initial text message discussion about Kyle Hadley (licensed real estate agent) renting and eventually purchasing the property
 - Text message: "If you'd be interested in talking seller financing so I don't need to take out a mortgage... might be able to talk about it"
 - Under Illinois law (Statute of Frauds, 740 ILCS 80/2), contracts for the sale of land must be in writing to be enforceable
 - As a licensed real estate agent, Kyle Hadley would have professional knowledge of this requirement
- **June 19, 2022:** Kyle Hadley moves into the property with verbal agreement to purchase after his condo sells
 - Initial monthly payment: \$1,440 (significantly below market rate of \$2,500)
- **October 27, 2023:** Kyle's condo sells for \$278,500, but no purchase of Brandon's property occurs
 - Tenant had substantial cash after sale but chose to purchase a \$40,000 vehicle instead of proceeding with property purchase
- **October 2023 - February 2025:** Kyle continues paying below-market rent after condo sale despite breaching purchase agreement
 - Payment amounts varied between \$1,200-\$2,080/month against market rate of \$2,500/month

Owner's Attempts at Resolution

- **July 29, 2024:** Brandon McGivern sends letter stating:
 - "I need to sell the house to you as soon as possible, by the end of this year at the latest."
 - "I was always under the impression that our agreement was for you to buy the house when your condo sold."
- **August 2024:** Brandon McGivern fully moves out of the property
 - Tenant remains in exclusive possession while owner relocates
- **October 9-13, 2024:** Text messages exchanged showing tenant's acknowledgment of purchase agreement:
 - Kyle: "Let me know when you want me out. Please return all the money I have sent."
 - Brandon: "The plan was always for you to buy the place when your other condo sold."
 - Kyle makes no attempt to deny this characterization of the agreement

Formal Communications and Notice Period

- **December 2024:** Extended deadline for property purchase passes without completion
- **January 31, 2025:** After 23 days of non-response to messages, Kyle claims to be "in the hospital"
 - No documentation provided regarding hospitalization
 - Limited communication resumes only after threat of wellness check
- **February 14, 2025:** Email from Kyle Hadley formally acknowledging inability to perform under agreement:
 - "It does not appear I will be able to [obtain a mortgage] in the next 4 months."
 - "Please return the \$30,000 plus cost of air conditioner and washer/dryer, for a total reimbursement of 40,217."
 - This admission confirms breach of the fundamental purchase agreement
- **February 15, 2025:** Brandon sends formal letter outlining options for resolution with 14-day response window:
 - Option 1: Deferred purchase at current market value with new written lease
 - Option 2: Termination and property surrender with investment return after sale
- **February 27, 2025:** USPS attempted delivery of certified letter; notice left but letter never retrieved
 - Tracking #9214890142980413704855 shows "Notice Left (No Authorized Recipient Available)"
 - Tenant made no attempt to schedule redelivery or pickup from post office
- **March 3, 2025:** Brandon resends February 15 letter via email, DropBox Sign, and messaging platforms
 - Documentation of multiple delivery attempts across various communication channels
- **March 4, 2025:** Kyle acknowledges receipt but rejects 14-day response deadline as "arbitrary"
 - Fails to provide substantive response to either option presented
- **March 18, 2025:** Brandon serves formal 60-Day Notice to Vacate requiring vacancy by May 17, 2025
 - Notice properly delivered via multiple channels (email, mail, messaging apps) with documented delivery
 - Notice complies with all requirements of CRLTO Section 5-12-130(j)
- **March 24, 2025:** USPS attempted delivery of certified letter; notice left but letter never retrieved
 - Tracking #9214890142980415563092 shows "Notice Left (No Authorized Recipient Available)"
 - Tenant made no attempt to schedule redelivery or pickup from post office

Attorney Involvement and Continuing Obstruction

- **March 28, 2025:** Attorney Mason Cole contacts Brandon regarding the property

- Incorrectly characterizes timeline and property situation
- Suggests 12-month plan without specific terms or acknowledgment of legal notice
- **March 28-April 11, 2025:** Despite requesting "immediate" contact, 12 days pass without substantive attorney response
 - April 1: Rent payment received without addressing legal matters
 - Pattern of delay continues despite alleged urgency
- **April 14, 2025:** Mason Cole indicates mortgage pre-approval within 7-14 days
 - Brandon reiterates May 17, 2025 vacancy date remains in effect unless new agreement reached
 - Sets prerequisite requirements including mortgage pre-approval for \$410,000 by April 30
 - No pre-approval documentation ever provided despite commitment
- **April 15, 2025:** Kyle sends text message stating: "You are a f***ing monster"
 - Demonstrates unprofessional conduct and hostility
- **April 21, 2025:** Mason Cole inadvertently forwards Kyle's statement in email chain:
 - "I will vacate the property by 7/31, only after my money is returned to me"
 - This reveals explicit intent to remain beyond legal notice period as negotiating leverage
 - Statement constitutes admission of intent to violate CRLTO requirements
- **April 22, 2025:** Kyle provides documentation showing:
 - \$7,075 for AC and \$2,142.28 for washer/dryer
 - Total: \$9,217.28 (contradicting previous claim of \$10,127)
 - No authorization documentation provided for these modifications

Access Denial and Final Communications

- **April 23, 2025:** Mason Cole states in writing: "Access to the property for inspection purposes should not be an issue"
 - Creates reasonable expectation of cooperation with inspection
- **April 30, 2025:** Brandon schedules inspection for May 10, 2025, at 3:00 PM
 - Provides 10-day advance notice, exceeding the 48-hour requirement under CRLTO
 - Specifies purpose of inspection (pre-move-out assessment)
- **May 7, 2025:** Phone call with Mason Cole confirms inspection is reasonable
 - Attorney acknowledges owner's right of access under CRLTO
- **May 9, 2025:** Brandon confirms May 10 inspection
 - Documents being blocked on WhatsApp by tenant
 - Sends confirmation via multiple communication channels
- **May 10, 2025:** Documented inspection attempt results in access denial:
 - Kyle refuses entry despite attorney's prior written assurance of access
 - Police called to document refusal (Event # 251 300 9537)
 - Officer confirms tenant denied legal owner access to property
 - Tenant suggests impromptu negotiation instead of lawful inspection

- **May 12, 2025:** Mason Cole offers 'counteroffer' demonstrating continued bad faith:
 - Vacate by June 30, 2025 (45 days after legal notice period)
 - Return of \$30,000 by July 31, 2025
 - Return of \$12,000 for fixtures by August 31, 2025 (increased from documented \$9,217.28)
- **May 13, 2025:** Brandon declines counteroffer, reiterating legal notice requirements
 - Mason Cole responds with legally incorrect statement: "You do not have grounds to evict because this is not a holdover situation"
 - This statement contradicts established landlord-tenant law regarding proper notice under CRLTO
- **May 17, 2025:** Required vacancy date passes without tenant vacating property
 - Creates unlawful holdover tenancy subject to double damages
- **May 18, 2025:** Filing of Forcible Entry and Detainer action based on:
 - Failure to vacate after proper 60-day notice per CRLTO Section 5-12-130(j)
 - Documented refusal to permit legally required property access per CRLTO Section 5-12-050
 - Written evidence of intent to remain beyond legal notice period
 - Failure to engage in good faith negotiations regarding legally required vacancy

VERIFICATION UNDER SECTION 1-109 OF THE ILLINOIS CODE OF CIVIL PROCEDURE

I, Brandon McGivern, declare under penalty of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure that I have read the foregoing Plaintiff's Memorandum in Support of Eviction Complaint, including the Case Review Summary and Critical Timeline of Events sections, and that the statements set forth therein are true and correct to the best of my knowledge and belief.

May 18, 2025

Date



Brandon McGivern, Plaintiff