

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Amber Orwig

Court of Appeals No. L-26-00009

Appellant

Trial Court No. CVG-24-20049

v.

Kit Management of NWO, LLC

DECISION AND JUDGMENT

Appellee

Decided: September 25, 2026

* * * * *

B. Noah Woods, George Thomas and Christina Rodriguez, for appellant.

Douglas A. Wilkins, for appellee

* * * * *

ZMUDA, J.

I. Introduction

{¶ 1} This matter is an appeal from the Housing Court of the Toledo Municipal Court, challenging the judgment dismissing the application for rent escrow of appellant, Amber Orwig, and disbursing the funds held in escrow at the conclusion of the case. For the reasons that follow, we affirm the judgment.

II. Facts and Procedural Background

{¶ 2} Amber Orwig rented a unit from appellee, Kit Management of NOW, LLC (Kit Mgt), beginning in April 2024. At the time, Orwig was employed by Kit Mgt, and she paid for the first several months of rent using rental assistance funds, deposited in her rental account. Each month, Kit Mgt accessed the account and withdrew the funds for monthly rent, just under \$1,500 each month.

{¶ 3} On December 16, 2024, Orwig filed an application and affidavit for tenant rent escrow, pursuant to R.C. 5321.07(B). Orwig alleged that she rented a home from Kit Mgt for the monthly rent of \$1,468.50 and attached a copy of her two-year lease. She further alleged that she was current in her rent payments under the lease, and that she notified Kit Mgt of conditions at the premises that Kit Mgt was obliged to remedy under R.C. 5321.04 and the terms of the lease. Despite her request for repairs, Orwig alleged that Kit Mgt has not complied with her requests and remedied the conditions. Orwig listed specific issues as follows:

- a. Multiple windows and window frames throughout the rental premises are in disrepair, with several cracked windows and broken window frames;
- b. The door frames for both the front and back of the home are in disrepair which, in turn, causes the doors to not properly function or form an airtight seal when closed;
- c. Several areas on the exterior of the home are missing siding and/or contain holes, causing the wood beneath [to] deteriorate and presenting safety concerns related to the structural integrity of the building;
- d. The dishwasher that was supplied by Landlord is not in good and safe working order and condition;
- e. Several heating registers that are built into the walls of different rooms throughout the premises do not properly function, leaving multiple rooms, including three of the four upstairs bedrooms, without an adequate supply of heat;

- f. Several electrical outlets throughout the premises are not in safe and good working condition, including many outlets that are so loose cords are not able to stay plugged into them;
- g. The exhaust fan in one of the bathrooms is not properly functioning, causing excess moisture to accumulate in the room when the shower is being used;
- h. There is extensive water damage and mold in areas of the basement, which Landlord had once acknowledged as needing to be addressed but has since failed to actually undertake efforts to properly remedy;
- i. The gutters on the home are in significant disrepair, presenting a safety concern to Ms. Orwig that these gutters may become detached in the event of heavy snow and/or ice conditions.

{¶ 4} In addition to this list, Orwig alleged that the utility company placed a “red-tag” notice on the furnace/boiler system for the premises in November 2024, identifying excessive carbon monoxide readings and extremely hot pipes near the connection between the pipes and the boiler, necessitating inspection and repair by a qualified technician. Orwig alleged that Kit Mgt sent someone to repair the system, but the repair did not include wrapping the pipes because the repair person and Kit Mgt determined there was no need to insulate the basement pipes. Orwig further alleged that Kit Mgt failed to install a carbon monoxide detector and made no further repairs after December 2024.

{¶ 5} In addition to the application for rent escrow under R.C. 5321.07, Orwig’s filing purported to state a claim for “quasi-contractual recovery based upon Landlord’s unlawful practice of re-selling water in violation of TMC 933.06.”

{¶ 6} The case proceeded under the Toledo Municipal Court Local Rule 6 governing rent escrow actions. The Local Rule outlines the procedure followed in rent escrow cases, requiring immediate referral to mediation, followed by a hearing on the

application before the magistrate of Housing Court if mediation does not resolve the matter. At the hearing, the tenant must demonstrate compliance with R.C. 5321.07, and pertinent to the present appeal, a tenant must demonstrate “reasonable grounds to believe the landlord violated a statutory or contractual duty which materially affects health and safety, and the condition remains uncorrected[.]” TMC Housing Court Loc.R. 6(D)(2)(ii). Additionally, the magistrate may refer the matter to a housing specialist for inspection and a report outlining existing code violations and recommended corrective actions. TMC Housing Court Loc.R. 6(C)(5). At the conclusion of hearing, the magistrate “shall make orders or prepare decisions in accordance with Civil Rule 53(C) and (E).” TMC Housing Court Loc.R. 6(C)(6). Pursuant to Rule 6(E)(1), “rent monies held in escrow... will continue to be withheld until an agreed entry is filed... or until an order is made by the Housing Court judge or magistrate or until the tenant gives written notice to the Clerk that the condition has been remedied[.]”

{¶ 7} According to the Local Rule, Orwig’s application for rent escrow was referred to the Housing Court’s mediation program, with no resolution reached. On February 14, 2025, the matter was returned to the magistrate docket, and referred to the Housing Specialist for inspection, pursuant to R.C. 1923.15 with respect to “doors & windows not functional; gutters, electrical outlets and any other conditions which constitute code violations.” The trial court scheduled the matter for hearing on the magistrate’s docket on April 3, 2025.

{¶ 8} On March 28, 2025, Orwig filed a motion for reduction of periodic rent to \$0, pursuant to R.C. 5321.07(B)(2), until conditions identified in Orwig’s rent escrow

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application were remedied. In support, Orwig attached nuisance orders issued by the City of Toledo on January 13, 2025, and the inspection report from Code Compliance Inspector, following the inspection performed on March 21, 2025. The trial court continued the hearing scheduled for April 3, 2025, and granted Kit Mgt time to respond to Orwig's motion. Kit Mgt responded in opposition to Orwig's' motion.

{¶ 9} In May 2025, Orwig began depositing funds into escrow for the first time. Based on the record, Kit Mgt had received its monthly rent during the proceedings, from December 2024 through April 2025, by withdrawing funds from Orwig's rental account. In May, however, those funds were exhausted.

{¶ 10} On September 18 and 23, 2025, the matter was tried to the magistrate regarding Orwig's requested remedy under R.C. 5321.07(B), an "order directing the landlord to remedy the condition" alleged in the application for rent escrow. At the start of the hearing, the magistrate held Orwig's request for an order reducing the periodic rent in abeyance, pending determination of the application and requested remedy. The magistrate also noted the Housing Specialist's recent inspection report and indicated it would consider the application for rent escrow based on the recent report of remaining issues. The magistrate also permitted testimony regarding historical issues along with evidence of Kit Mgt's response in addressing these issues.

{¶ 11} The Housing Specialist Report dated September 5, 2025, noted "significant progress made; however, several items remain out of compliance." The report noted that entry and exit doors remain out of alignment, and while broken window glass was replaced, other issues with the windows remain, including peeling paint, missing handles

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or locks, and difficulty opening and closing the windows. The report further notes that the water damage to the upstairs bedroom ceiling is “still visible” and entryway and living room light switches “remain nonfunctional.” Finally, the report noted “one upstairs bedroom has wall damage beneath a window, above the heat register, that requires repair.”

{¶ 12} At the hearing, Orwig testified that she moved into the property on April 1, 2024, and notified Kit Mgt of issues on April 3, 2024. She testified that Kit Mgt failed to address the issues over many months, and at the time she filed her application for rent escrow in December 2024, the “major issues” she identified remained uncorrected. As an example, Orwig indicated that she notified Kit Mgt of issues with the boiler, red-tagged by Columbia Gas, that were repaired. Orwig testified that issues remained because Orwig did not believe the repair person was a qualified technician and the repair did not include applying an insulating wrap around the pipes. Orwig also noted that the windows and doors did not close properly, causing an expensive electric bill to heat and cool the home. Orwig testified that her recent electric bill was \$600 due to “running six air-conditioners” that did not “cool my house properly.”

{¶ 13} Orwig testified that doors and windows remained in disrepair and that Kit Mgt attempted repairs, but she testified that the issues were not fixed properly. She explained that the doors swell when it is warm and there was a lack of “proper sealing around the doors.” Orwig testified that the front door has gaps at the bottom that lets rain in, and she must force the back door open and closed. Other issues noted by Orwig

included a radiator cover that pulls away from the wall and light switches that do not function.

{¶ 14} On cross-examination, Orwig acknowledged that she installed her own window air conditioner units and currently had six units operating. She also acknowledged that Kit Mgt repaired broken glass in a window, and she did not disagree with the housing specialist's report noting "significant progress" on repairs to the home. She also admitted to denying access to Kit Mgt for repairs in at least one instance but also testified that Kit Mgt had failed to provide 24-hour notice before coming to do repairs. Orwig testified that she viewed the home as a prospective tenant before it was advertised as available, and that she understood property management, having worked for Kit Mgt. Additionally, Orwig acknowledged that she provided immediate notice of repairs needed upon moving in, left her employment with Kit Mgt in August 2024, and filed the application for escrow in December 2024, after she no longer worked for Kit Mgt.

{¶ 15} Lori Dowell testified on behalf of Kit Mgt. Dowell testified that she is a property manager, and had been employed by Kit Mgt for four years, managing 587 properties, including Orwig's property. Dowell testified that Kit Mgt had addressed every complaint with Orwig's property. As to remaining issues – the boiler, radiator/register, the doors, and the windows – Dowell testified that she sent emails and gave 24-hour notice, but on several occasions maintenance staff was denied entry with no answer at the door. Dowell testified that Kit Mgt replaced the rear door with a brand-new door, and the entry door opened and closed without issues. Dowell further noted that she had inspected the

windows, and they opened and closed and were functional, even if “some of them do stick.”

{¶ 16} On cross-examination, Dowell testified regarding the number of times Kit Mgt sent contractors to the home to repair electrical issues, and Dowell believed Orwig placed a strain on the electrical service by operating six window air-conditioning units at once. Dowell admitted she worked with Orwig at Kit Mgt and knew Orwig had a heat sensitivity, but she also testified that Orwig fully understood she was renting a home that lacked central air conditioning. Dowell testified that, at the time Orwig toured the home prior to leasing, the home was recently vacated and had “furniture and trash left in the unit.” Dowell testified that Kit Mgt attempted to address each issue as Orwig provided notice, sending contractors to address electrical issues and a bad breaker, but some electrical issues were caused by Orwig, herself. Specifically, Dowell indicated that she raised the issue of the breaker flipping due to multiple air-conditioning units with Orwig, and one of Kit Mgt’s contractors also discussed the air-conditioning units with Orwig. Dowell also testified that the front door worked “fine until the entry locks were changed” by Orwig.

{¶ 17} Dowell also addressed Orwig’s complaint regarding the boiler, testifying that Kit Mgt sent a contractor to repair a leak in one of the pipes, the contractor cut out and replaced a section of pipe, and the boiler operated “to manufacturer specs,” contrary to Orwig’s numerous complaints regarding the boiler. Finally, as to the denials of access, Dowell acknowledged that a landlord is permitted to enter the home upon notice if a

tenant is not present. However, Kit Mgt was following Orwig's express request in only entering when Orwig was present.

{¶ 18} At the close of testimony, counsel for Orwig raised the issue of rent abatement, also pending before the court, and argued that the "extensive conditions" that were not completely remedied merited a reduction in rent based on the \$14,000 paid to Kit Mgt prior to escrow, and the amount currently deposited in escrow. Orwig's counsel also argued that Kit Mgt exaggerated denials of access to the premises by Orwig, and that the court should order Kit Mgt to make repairs identified in the latest housing specialist report.

{¶ 19} Counsel for Kit Mgt argued that the record demonstrated responses to Orwig's complaints as they were received, with Orwig not permitting access to the property despite good faith efforts and notice. Additionally, Kit Mgt's counsel argued that the law requires the property be habitable, with no warranty against all discomfort and inconvenience. Counsel argued that there was no evidence demonstrating the property was not habitable, affecting the health and/or safety of Orwig's household.

{¶ 20} Following hearing, the trial court issued a magistrate's decision with respect to housing conditions or code violations, as alleged by Orwig under R.C. 5321.07(B)(2), and made the following findings:

[Orwig] entitled to rent abatement for unresolved issues. [Orwig] worked for [Kit Mgt and] the [court] finds both parties are using this process to antagonize the other. [Kit Mgt] is guilty of dragging [its] heels to correct matters. [Orwig] has frustrated [Kit Mgt] from performing repairs. No expert testimony presented. All party's exhibits are admitted.

The magistrate's decision, filed October 14, 2025, distributed \$1,200 of the funds held in escrow to Orwig, with the remaining funds distributed to Kit Mgt after payment of court costs. The magistrate's decision was adopted as the judgment of the trial court, journalized on October 16, 2025, and escrow was ordered terminated. A day later, Orwig filed a request for separate findings of fact and conclusions of law, pursuant to Civ.R. 52.¹

{¶ 21} On October 29, 2025, Orwig filed objections to the magistrate's decision, pursuant to Civ.R. 53(D)(3)(b). Orwig argued that the evidence adduced at hearing did not support the magistrate's decision, and the magistrate acknowledged that "unresolved issues" remained and failed to order Kit Mgt. to correct those issues. Orwig also argued that the award of only \$1,200 in rent abatement was against the weight of the evidence, as that amount represents less than five percent of the total rent paid since April 2024.² Kit Mgt. filed a response in opposition.

{¶ 22} On December 5, 2025, the trial court ruled on Orwig's motion and objections. The trial court found the matter was tried regarding Orwig's entitlement to a remedy under R.C. 5321.07(B)(2), and the trial court rejected Orwig's assertion that her

¹ Civ.R. 52 provides for findings by the court following a bench trial and are separate from the procedure under Civ.R. 53. Pursuant to Civ.R. 52, "An opinion or memorandum of decision filed in the action prior to judgment entry and containing findings of fact and conclusions of law stated separately shall be sufficient[.]"

² Orwig also challenged the use of Toledo Municipal Court Housing Court Local Rule 6, which "enables Landlords to avoid filing an application for release of rent pursuant to R.C. 5321.09, effectively frustrating the tenant's ability to assert an 'answer and counterclaims, as in other civil actions.'" Orwig does not assert any challenge to the Housing Court's local rule on appeal.

filing of rent in escrow established this entitlement, without additional evidence. The trial court further noted that Orwig did not contest the finding that she acted to frustrate Kit Mgt's attempts to make repairs or that the parties used the proceedings to antagonize each other. Finally, the trial court noted that no evidence demonstrated that remaining issues affected the habitability of the premises. With the matter of remedy under R.C. 5321.07(B)(2) addressed and the escrow terminated, the trial court determined the issue of rent reduction was moot. The trial court further noted that Civ.R. 52 only applied if the matter had not been tried before a magistrate; as the trial court did not preside, it was not required to provide separate findings of fact or conclusions of law.³

III. Assignments of Error

{¶ 23} Orwig filed a timely appeal, and asserts the following as error:

I. The trial court erred when it diverged from the required statutory process governing rent escrow proceedings at R.C. 5321.07 through 5321.10 by (1) releasing rent to the Appellee-Landlord though it never applied for release of rent pursuant to R.C. 5321.09, and (2) terminating the action prematurely despite uncontroverted evidence that the Appellee-Landlord failed to resolve defective conditions at the rental premises.

II. The trial court awarded only \$1,200 in rent abatement based on an erroneous legal premise that any rent paid prior to the institution of the escrow action is irrelevant to determining the appropriate amount of abatement to be awarded.

³ Additionally, the trial court addressed Orwig's purported claim arising from a dispute over billing for water and sewer services. The trial court determined these claims did not fall within its adjudication of her application for rent escrow pursuant to R.C. 5321.07, and determined the claims were not properly before the court. On appeal, Orwig argues that the claims were properly before the court under R.C. 5321.12 but provides no argument or authority demonstrating that a claim to enforce TMC 933.06 falls within R.C. Chapter 5321. Pursuant to App.R. 16(A)(7), we decline to address this argument.

{¶ 24} Orwig challenges the trial court's ruling on objections to the magistrate's decision, arguing the trial court's application of the statutory process was contrary to the express language of the statutes. Orwig argues that, pursuant to R.C. 5321.07 through 5321.10, a landlord must apply for release of rent held in escrow after demonstrating compliance with the law, and by dismissing Orwig's application for rent escrow and then releasing funds to Kit Mgt without any application for release of funds, the trial court disregarded the statutory process and terminated the action prematurely. Orwig further argues that the trial court erred in entering its judgment regarding damages, awarding her only \$1,200 in rent abatement. Thus, Orwig's challenge on appeal challenges the trial court's interpretation of the statute governing applications for rent escrow, as well as the trial court's judgment in applying the statute.

A. Statutory Interpretation

{¶ 25} Orwig argues in favor of de novo review of her assignments of error, characterizing her challenge as one of purely statutory interpretation. While not specifically addressing the proper standard of review, Kit Mgt argues that Orwig's interpretation of the statute is a misstatement of the law, and that the trial court possessed equitable authority to disburse the funds held in escrow upon completion of the case without a motion under R.C. 5321.09. Kit Mgt further argues that the trial court's determination of rent abatement is reviewed under a manifest weight of the evidence standard, rather than the de novo review required for statutory interpretation.

{¶ 26} Orwig's argument, relative to her assignments of error, begins with her assertion of the correct interpretation of R.C. 5321.09. Therefore, we must first address

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Orwig's interpretation of the statute, prior to addressing the trial court's application of R.C. Chapter 5321 to her case. "Statutory interpretation is a question of law to be reviewed de novo." *Doolittle v. Montgomery*, 2026-Ohio-1935, ¶ 37 (7th Dist.). We address Orwig's argument regarding the correct statutory interpretation under a de novo standard.

{¶ 27} We interpret a statute based on the plain language used, considering the statute in its entirety, and if the plain language is clear and unambiguous, we need not "resort to other means of interpretation." *Baldwin v. Buckles*, 2020-Ohio-2759, ¶ 14 (6th Dist.), quoting *Horvath v. Ish*, 2012-Ohio-5333, ¶ 10 (additional citation omitted.). The statute at issue, in this case, is the Landlords and Tenants Act, codified at R.C. Chapter 5321.

{¶ 28} "Ohio's Landlords and Tenants Act imposes duties on landlords which were absent at common law." *Miller v. Ritchie*, 45 Ohio St.3d 222, 224 (1989). Pertinent to the present appeal, R.C. 5321.04 requires a landlord to comply with housing, health, and safety codes that materially affect health and safety; keep the premises in a fit and habitable condition; maintain electrical, plumbing, sanitary, and heating/cooling fixtures and appliances supplied by or required to be supplied by the landlord; and not abuse the right of access under R.C. 5321.05(B) or fail to provide twenty-four-hour notice prior to entry. R.C. 5321.04(A)(1)-(2); (4), (7)-(8).

{¶ 29} "When a landlord fails to maintain rental property in accordance with statutory or contractual obligations, R.C. 5321.07 allows a tenant to: (1) deposit rent with the court, (2) apply for a court order directing the landlord to remedy the condition, or (3) terminate the rental agreement." *Miller* at 224. However, R.C. 5321.07 is not the

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exclusive remedy for a tenant “aggrieved by a landlord’s breach of duty.” *Id.* A tenant may also seek damages, including rent abatement, “in a common-law action outside the escrow mechanism set forth in R.C. 5321.07.” *NW Ohio Services III, LLC v. Thames*, 2024-Ohio-5307, ¶ 16 (6th Dist.), citing *Miller* at 225. Where, as in this case, a tenant applies for relief under R.C. 5321.07, the trial court acting under its authority as a housing court pursuant to R.C. 1901.011 has jurisdiction to adjudicate the application according to the statute. *Booker v. RSH 506 LLC*, 2025-Ohio-1375, ¶ 9-10 (6th Dist.).

{¶ 30} Orwig argues the provisions of R.C. 5321.07 without challenging the trial court’s interpretation and only seeks an interpretation of R.C. 5321.09. “When a landlord fails to maintain rental property in accordance with [R.C. Chapter 5321], R.C. 5321.07 provides tenants ‘with leverage to redress breaches of those duties.’” *Summers v. Lake of the Woods Apartments*, 2023-Ohio-1093, ¶ 12 (6th Dist.), quoting *Miller* at 224. Orwig first gave notice to Kit Mgt of issues in the rental property falling under the landlord’s duties pursuant to R.C. 5321.04, as required by R.C. 5321.07(A), and then filed her application for rent escrow pursuant to R.C. 5321.07(B), seeking a court order directing Kit Mgt to remedy the conditions identified in her application. Orwig subsequently filed an application for reduced rent, seeking a reduction to \$0 per month for rent.

{¶ 31} Pursuant to the trial court’s Local Rule, the matter was referred to mediation to attempt resolution. After mediation failed to resolve the issues, the matter returned to the docket and a trial on Orwig’s application for rent escrow. Following the hearing, the trial court found Kit Mgt had remedied most issues, dismissed the case, and released the funds

held in escrow. Orwig was awarded \$1,200 of the funds as rent abatement for “unresolved issues.”

{¶ 32} Orwig’s challenge to the trial court’s judgment rests, in part, on her interpretation of R.C. 5321.09, regarding release of escrow funds to a landlord. Orwig argues that R.C. 5321.09 requires a landlord to file a motion for release of escrow funds, limiting the trial court’s authority to disburse funds from escrow. In arguing that the trial court lacked authority to release escrow funds after hearing and final judgment, however, Orwig points to no legal authority supporting her interpretation, and Orwig relies on a mischaracterization of the language used within R.C. 5321.09.

{¶ 33} R.C. 5321.09 provides “defensive actions” to a rent escrow proceeding, which include a provision that permits the landlord to apply to the trial court for release of rent prior to the determination of the merits of the application for rent escrow. The statute permits a release of rent “on the ground that the tenant did not comply with the notice requirement of division (A) of section 5321.07 of the Revised Code...” or “on the ground that there was no violation of any obligation imposed upon the landlord by section 5321.04 of the Revised Code ..., or that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code has been remedied.” *See Summers v. Lake of the Woods Apartments*, 2023-Ohio-1093, ¶ 13 (6th Dist.), quoting R.C. 5321.09(A).

{¶ 34} While Orwig argues that R.C. 5321.09(A) mandates an application filed by the landlord, prior to any release of escrow funds, the statute states: “A landlord who receives notice that rent due him has been deposited with a clerk of a municipal or county court

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pursuant to section 5321.07 of the Revised Code, *may* do any of the following[.]” In construing a statute, we must give effect to the words used and apply the rules of grammar and common usage. *Bergman v. Monarch Constr. Co.*, 2010-Ohio-622, ¶ 9. “In statutory construction, the word ‘may’ shall be construed as permissive and the word ‘shall’ shall be construed as mandatory unless there appears a clear and unequivocal legislative intent that they receive a construction other than their ordinary usage.” *State ex rel. Gilreath v. Cuyahoga Job & Family Services*, 2024-Ohio-103, ¶ 43, quoting *Dorrian v. Scioto Conservancy Dist.*, 27 Ohio St.2d 102, (1971), paragraph one of the syllabus.

{¶ 35} Orwig acknowledges that the permissive language of “may” in R.C. 5321.09(A) merely signals the legislature’s intent to permit a landlord to seek the funds held in escrow. At the same time, Orwig maintains that the statutory scheme does not permit a court to release escrow funds without an application, suggesting that a landlord could opt to forgo the escrowed funds. In support, Orwig relies on this court’s precedent relative to rent escrow proceedings initiated under former R.C. 3733.12, pertaining to rental agreements in manufactured home parks. *See Woodside Terrace Mobile Home Owners Assn. v. Woodside Terrace Co. Ltd.*, 53 Ohio App.3d 20 (6th Dist.1988).⁴ However, while former R.C. 3733.12 and R.C. 5321.07 are similar, our decision in *Woodside Terrace* does not support Orwig’s interpretation of R.C. 5321.09.

{¶ 36} In *Woodside Terrace*, the pertinent issue on appeal concerned the trial court’s decision to release rent to the landlord prior to the time allotted to the tenant to respond,

⁴ Effective September 10, 2012, rent escrow for tenants of manufactured home parks is governed by R.C. 4781.41.

and prior to the tenant's receipt of service of the application. *Woodside Terrace* at 21-22. In *Woodside Terrace*, we did not construe the statute as requiring an application by the landlord, prior to any release of escrowed funds to the landlord. Rather, we recognized the provision under the statutory scheme that permitted summary disposition of the tenant's rent escrow application and release of rent deposits, which required service of a pleading by application, prior to disposition. Thus, former R.C. 3733.12 is like R.C. 5321.09, which permits summary disposition upon a landlord's application, with that application served in the manner of a complaint.

{¶ 37} Thus, contrary to Orwig's argument, this court recognized that the landlord application relative to manufactured home park tenants is appropriate as a summary disposition. However, after trial and final determination, the trial court orders release of rent on deposit to the landlord, and unless the tenant is found at fault or found to have acted in bad faith, "the park operator is normally assessed costs upon the release of rent deposited." *Id.* at 22. Our finding in *Woodside Terrace*, therefore, does not support Orwig's interpretation of R.C. 5321.09, requiring either an application for release or a decision to abandon the escrowed funds.

{¶ 38} Accordingly, based on the plain and clear language of R.C. 5321.09, a landlord may seek release of rent held in escrow as a summary disposition of the application for rent escrow under R.C. 5321.07. The statute otherwise provides for a release of escrow funds at the end of the case, without any application, "[i]f the court finds ... that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code has been remedied[.]" *See* R.C. 5321.09(C). Therefore, Orwig's

interpretation of R.C. 5321.09, mandating a landlord's application prior to any release of escrowed rent is not consistent with the express language of the statute, and Orwig's argument regarding a mandatory application prior to release of rent is without merit.

{¶ 39} Having determined that the plain meaning of R.C. 5321.09 permits a landlord to request summary disposition and release of escrowed funds, or in the alternative, release of escrowed funds by the court at the conclusion of proceedings, we address each of Orwig's assignments of error in turn.

B. Rent Escrow Proceedings

{¶ 40} In her first assignment of error, Orwig argues that the trial court improperly released escrowed funds without an application pursuant to R.C. 5321.09 and that R.C. 5321.07 required Kit Mgt to address all the outstanding issues she noted regarding the premises before the trial court could properly dismiss the action. As to the requirement for an application under R.C. 5321.09, we addressed this issue and found the statute does not mandate an application, with R.C. 5321.09(C) governing release of escrowed funds following the trial court's determination. In this case, the trial court found that the issues contained in Orwig's application for rent escrow had been remedied for purposes of R.C. 5321.07, after a trial. Thus, all that remains to be determined is whether the trial court properly addressed the application under R.C. 5321.07.

{¶ 41} Orwig argues that we must apply the de novo standard of review to the trial court's decision under R.C. 5321.07. However, Orwig does not argue any issues of statutory interpretation, relative to R.C. 5321.07. Instead, she challenges the trial court's judgment in determining her application following a trial. Therefore, we review that

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judgment under the manifest weight of the evidence standard. *See, e.g., Heck v. Whitehurst Co.*, 2004-Ohio-4366, ¶ 25 (6th Dist.) (addressing the evidence supporting findings under R.C. 5321.04 and 5321.07); *see also Johnson v. First Key Homes, LLC*, 2025-Ohio-882, ¶ 22 (12th Dist.); *Continental Ents., Ltd., v. Franklin*, 2016-Ohio-3055, ¶ 25 (8th Dist.).

{¶ 42} “We apply the same standard of review for manifest weight in a civil case as in a criminal case.” *NW Ohio Services*, 2024-Ohio-5307 at ¶ 22 (6th Dist.), citing *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 17. In reviewing the trial court’s judgment under a manifest weight of the evidence standard, we must consider whether “the *greater amount of credible evidence*, offered in a trial” supports “one side of the issue rather than the other.” (Citations omitted.). *State v. Reillo*, 2026-Ohio-2701, ¶ 25 (emphasis sic.). Furthermore, because the review requires determining whether the finder of fact lost its way in resolving conflicts in the evidence, there must be conflicting evidence, and not mere inconsistency, for an appellate court to disregard the fact-finder’s credibility determinations. *Reillo* at ¶ 30-32.

{¶ 43} In this case, there was no conflict or inconsistency, evident in the record, regarding issues affecting habitability of the premises. In fact, there was no testimony addressing the matter of habitability, aside from testimony regarding the “red-tag” notice for the boiler which was repaired. Orwig, however, argues that that Kit Mgt failed to complete all repairs of issues identified in her application for rent escrow under R.C. 5321.07, preventing the trial court’s final determination and release of rent. However, Orwig presented no evidence that permitted a finding that any remaining issues

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constituted a hazardous condition or jeopardized her health and safety for which Kit Mgt could be held liable under R.C. 5321.07. *See Wenzke v. Baird*, 2014-Ohio-3069, ¶ 11 (6th Dist.).

{¶ 44} Instead of habitability issues, Orwig complains of code violations without evidence to demonstrate the violations rendered the premises hazardous or uninhabitable. We have previously addressed similar claims, related to building code violations, and limited relief under R.C. 5321.07 to defective conditions that render “the premises unfit or uninhabitable.” *See Wenzke* at ¶ 17. To merit relief, a tenant must demonstrate more than discomfort and inconvenience; “Fitness and habitability [entail] such defects as lack of water or heat, faulting wiring or vermin infestations” and does not include “missing handrails.” *Wenzke* at ¶ 18, quoting *Gress v. Wechter*, 2013-Ohio-971, ¶ 20 (6th Dist.). Furthermore, “[w]indow latches are not necessary for a property to be habitable.” *Id.*, quoting *Cipollone v. Hoffmeier*, 2007-Ohio-3788, ¶ 22 (1st Dist.).

{¶ 45} At trial, Orwig testified regarding defects in the premises, with the record reflecting significant progress by Kit Mgt in addressing issues at the time of trial. Neither party presented expert testimony, and based on the limited testimony and the most recent Housing Inspection report which was admitted and made part of the record, the remaining issues included mis-aligned entry doors that stuck, windows with peeling paint that were difficult to open and close and lacked handles and/or locks, visible water damage on a ceiling that had not been remedied, non-operational light switches near the entry and in the living room, and unrepaired damage to a bedroom wall, between a window and heat

register. There was no testimony regarding any of these issues that implicated the habitability of the home.

{¶ 46} Considering this record, we find no conflicting testimony requiring resolution, and therefore, no basis to disregard the fact-finder’s determination based on this testimony. Orwig’s first assignment of error, accordingly, is not well-taken.

C. Rent Abatement

{¶ 47} In her second assignment of error, Orwig challenges the trial court’s award of \$1,200 from the escrow funds, with the remaining funds returned to Kit Mgt after payment of court costs. We will not reverse the trial court’s determination regarding rent abatement unless that determination is against the manifest weight of the evidence. (Citation omitted) *NW Ohio Services*, 2024-Ohio-5307 at ¶ 22 (6th Dist.).

{¶ 48} Orwig argues that the trial court incorrectly calculated her damages for rent abatement. In determining damages arising from a landlord’s breach of the duty to maintain the premises, where the tenant does not make the repairs, “the measure of damages is the difference between the rental value of the property in its defective condition and what the rental value would have been had the property been maintained.” *Heck*, 2004-Ohio-4366 at ¶ 33 (6th Dist.), quoting *Miller*, 45 Ohio St.3d 222 (1989), paragraph three of the syllabus. This calculation involves consideration of reduction-in-use for purposes of “measuring the effect of such reduction-in-use (together with any other defect in the leasehold) on the rental value of the property.” *Heck* at ¶ 33, citing *Miller* at paragraph three of the syllabus.

{¶ 49} In this case, the trial court awarded \$1,200, which is slightly less than the monthly rent. The magistrate’s decision provided no findings to support this amount, and while Orwig requested specific findings pursuant to Civ.R. 52, there was no request for findings made to the magistrate pursuant to Civ.R. 53(D)(3)(a)(ii). While the trial court could have construed Orwig’s request for findings of fact and conclusions of law as filed according to Civ.R. 53(D)(3)(a)(ii), Orwig does not raise this as error in her appeal. Instead, Orwig presumes the magistrate’s calculation, adopted by the trial court, arose from the amount of funds held in escrow.

{¶ 50} Orwig argues that rent abatement should have been calculated based on the amount of rent either paid or deposited with the court, beginning with her first notice of defects within days of taking possession of the premises. In support, Orwig does not argue any reduction in use of the premises arising from any defects, a necessary consideration in calculating an amount of damages for rent abatement. *See Heck* at ¶ 33. Additionally, in comparing the facts in her case to other cases in which rent abatement was awarded, Orwig relies on precedent addressing defects affecting health and safety, a matter for which no evidence was adduced. As previously noted, the record in this case is devoid of habitability issues, with the only suggestion of a safety issue the “red-tag” notice for the boiler, reported to Kit Mgt in November 2024 and addressed through repair in December 2024.

{¶ 51} Accordingly, the record consists only of Orwig’s argument regarding the amount of rent paid and no explanation for the magistrate’s calculation. Therefore, based on these limitations, we cannot find that the award of \$1,200 in rent abatement is against

22.

the manifest weight of the evidence. Orwig's second assignment of error is not well-taken.

IV. Conclusion

{¶ 52} Finding substantial justice has been done, we affirm the judgment of the Toledo Municipal Court, Housing Division. Orwig is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.
See also 6th Dist.Loc.App.R. 4.

Thomas J. Osowik, P.J.

JUDGE

Gene A. Zmuda, J

JUDGE

Charles Sulek, J
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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