



200702020081

Skagit County Auditor

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Document Title: JUDGMENT

Reference Number:

Grantor(s):

☐ additional grantor names on page ____

1. MATTHEW MCKAY
2. KATHY MCKAY

Grantee(s):

☐ additional grantee names on page ____

1. J. PHILLIP RHODES
- 2.

Abbreviated legal description:

☐ full legal on page(s) ____

LOT 5 ROCK RIDGE WEST, according to the plat thereof,
recorded March 25, 2002, under Auditor's File No.
2002 03250231, records of Skagit County, Washington.

Assessor Parcel / Tax ID Number:

☐ additional tax parcel number(s) on page ____

4792-000-005-0000 / P119047

2007 FEB -2 AM 10:08

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR SKAGIT COUNTY

J. PHILLIP RHODES, an unmarried man,)

Plaintiff,)

vs.)

No. 06-2-01404-1

MATTHEW MCKAY and KATHY)

MCKAY, husband and wife,)

and all other occupants,)

Defendants.)

JUDGMENT FOR PLAINTIFF

JUDGMENT SUMMARY

JUDGMENT CREDITOR:

J. Phillip Rhodes

ATTORNEY FOR JUDGMENT CREDITOR:

John P. Livingston

JUDGMENT DEBTORS:

Matthew McKay and
Kathy McKay, husband
and wife (pro se defendants).

PRINCIPAL:

\$11,120.31

PREJUDGMENT INTEREST:

\$ 0.00

ATTORNEY FEES:

\$ 3,000.00

COSTS OF ACTION:

\$ 424.62

TOTAL JUDGMENT:

\$14,544.93

POSTJUDGMENT INTEREST RATE:

12%

JUDGMENT - 1

CERTIFIED CO



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1 THIS MATTER was arbitrated on December 20th and 21st, 2006 with Patrick M. Hayden,
2 Attorney at Law, as arbitrator. At the conclusion of the arbitration hearing, Mr. Hayden
3 considered the testimony and evidence presented, and entered a decision in favor of the Plaintiff.
4
5 On December 22, 2006, Mr. Hayden signed an Arbitration Award (see Exhibit A), and mailed
6 copies to the Plaintiff's attorney, to the Defendants, and to the Director of Arbitration, on
7 December 23, 2006. The Award was filed with the Court on December 26, 2006. More than 20
8 days has elapsed since the filing and service of the Arbitration Award, and the Defendants have
9 not filed or served a demand for a Trial de Novo.
10

11
12 Consistent with the Arbitrator's decision, and considering Mandatory Arbitration Rule 6.3 and
13 Superior Court Civil Rule 54(f), the Court enters judgment as summarized above.
14

15 Done this 2 day of Feb, 2007.
16

17
18 
19 JUDGE / COMMISSIONER

20 Respectfully presented:
21

22 
23 John P. Livingston, WSBA No. 32297
24 Attorney for the Plaintiff.
25
26
27
28



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SUPERIOR COURT OF THE STATE OF WASHINGTON FOR SKAGIT COUNTY

J. PHILLIP RHODES, an unmarried man,

Plaintiff,

vs.

MATTHEW MCKAY and KATHY MCKAY,
Husband and Wife, and all other occupants.

Defendants.

No.06-2-01404-1

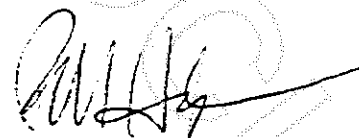
Arbitration No. 846

ARBITRATION AWARD

The issues in arbitration having been heard on December 20-21, 2006, I make the following award:

I award the Plaintiff the principle sum of \$11,120.31, together with \$424.62 as costs and \$3,000.00 as reasonable attorney fees under the rental agreement, for a total award of \$14,544.93. A letter explaining the basis of the award is attached hereto.

DATED this 22 day of December, 2006.



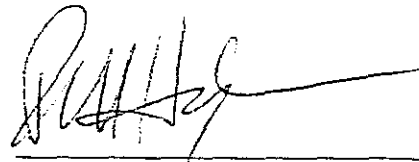
Patrick M. Hayden, Arbitrator
Attorney at Law
109 Warner Street / PO Box 454
Sedro-Woolley, WA 98284
Phone (360) 855-1811



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CERTIFICATE OF MAILING: I certify that I mailed a copy of this document to the attorneys / parties listed hereon, and to the Director of Arbitration, postage prepaid on the 23 day of December, 2006.



Patrick M. Hayden, Arbitrator
Attorney at Law
109 Warner Street / PO Box 454
Sedro-Woolley, WA 98284
Phone (360) 855-1811

Mathew McKay
Kathy McKay
3921 West 12th Street
Anacortes, WA 98221

John P. Livingston
Law Office of Alan R. Sounders
PO Box 1950
Anacortes, WA 98221



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Patrick M. Hayden
Lawyer
109 Warner Street / PO Box 454
Sedro-Woolley, WA 98284
Phone (360) 855-1811

December 22, 2006

Mathew McKay
Kathy McKay
3921 West 12th Street
Anacortes, WA 98221

John P. Livingston
Law Office of Alan R. Sounders
PO Box 1950
Anacortes, WA 98221

Re: Rhodes v. McKay, Arbitration No. 846

The purpose of this letter is to explain how I reached my decision in the above-referenced arbitration. I will not write Findings of Fact, but some explanation is appropriate.

Rental Agreement and Waivers. The parties entered into a rental agreement for a one-year tenancy ending November 30, 2005. The tenancy converted to a month-to-month tenancy after November 30, 2005, governed by the written lease to the extent applicable. Various terms of the lease and other norms were not enforced, and were waived by actions of the parties. Rent was sometimes paid late, but the landlord regularly waived the late fee. The landlord used a portion of the basement for storage with the consent of the tenant, and had convenient access to the basement. So long as the parties got along, these accommodations were accepted by all parties. When the landlord-tenant relationship turned sour, both parties insisted these accommodations were violations by the other party. I am concluding that the parties may not retroactively insist that their prior waivers and courtesies to each other now constitute violations of the lease.

Rent and Utilities. The tenant owes rent for June, 2006 (\$300.00) and August, 2006 (\$1,200.00), for a total of \$1,500.00. The residence was vacated on August 31, 2006, and rent is not due for September, 2006. The tenant owes for city utilities through August 31, 2006 in the amount of \$189.72.

Damages. The most convincing testimony concerning the condition of the property was presented by Kimberli Gregory, the landlord's agent for the lease. Her testimony was supported by photographs which she identified as representative of the condition of the property on the September 1, 2006. Ms. Gregory was present for both the move-in walk through and the move-out walk through, both of which were documented. The landlord and tenant were not present for the move-out walk-through and report. Ms. Gregory's last walk-through was on September 1, 2006, the day after the tenant moved out. At least some of the photos were taken on September 1. I am only awarding damages based on Ms. Gregory's testimony for which third party invoices are provided. I am not awarding damages or costs that are not supported by third party billings. I am not awarding anything for storing garbage or items not belonging to the tenant.



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I give Ms. Gregory's testimony high value. I do not give the testimony of the landlord similar value, as the landlord was uncertain of the specific items of damage and the identity of the photographs. The tenant's testimony was contradicted by the photographs and Ms. Gregory's checklist, and lacked the specificity of Ms. Gregory's testimony. Only Ms. Gregory's testimony, on the issue of the condition of the premises at both the inception of the lease and the time of termination of the lease, was persuasive.

Both the checklist and the photographs identified by Ms. Gregory show significant damage, dirt, and other issues for which the tenant is responsible under the lease. I am awarding the painting bill and carpet bill because the landlord testified that he is paying or would pay for these items, I think they are necessary repairs, based on Ms. Gregory's testimony and the photographic evidence, and are reasonably due under the terms of the lease. I am also awarding the carpenter bills which have third party documentation.

I am excluding the carpenter bill for the damaged cabinet, because I find the tenant's testimony persuasive on this issue. I am awarding sales tax where I have been given these figures by the landlord's invoices, but not otherwise, as there was no testimony as to the tax rate.

Credits. The tenant is entitled to a credit for \$1,700.00 for prepaid rent and pet deposit, and a credit of \$200.00 for disturbance in peaceable possession of the premises for the deck work, deck furniture, and loss of use of the premises for these and other incidental issues, for a total credit of \$1,900.00.

The bills which are awarded are as follows, less credit for deposits, are as follows:

Zollman Construction	(less item 1)	\$1,665.00
Frontier - JeldWen Window		\$ 176.59
Frontier - Millwork		\$ 539.00
Carpet		\$4,015.00
Painting		\$4,200.00
Cleaning Fees		\$ 735.00
City of Anacortes		\$ 189.72
Rent June and August, 2006		\$1,500.00
Sub-Total		\$13,020.31
Credit for Deposits, etc.		(\$1,900.00)
Total		\$11,120.31

The court rules also advise that I am to decide "all issues". Accordingly, I am also awarding Plaintiff's costs of \$424.62, and reasonable attorney fees of \$3,000, for a total award of **\$14,544.93 in favor of the Plaintiff**. The attorney fees are discounted, as I am not awarding fees for theories that did not lead to a judgment, or for theories on which the Defendant prevailed. All other claims of the parties are denied.

Very truly yours,

Patrick M. Hayden



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UNOFFICIAL DOCUMENT

State of Washington, } ss.
County of Skagit

I, Nancy K. Scott, County Clerk of Skagit County and ex-officio Clerk of the Superior Court of the State of Washington, in the County of Skagit, do hereby certify that the foregoing instrument is a true and correct copy of the original consisting of 16 pages, now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at my office at Mount Vernon this 02 day of FEB, 2007. Nancy K. Scott, County Clerk

By Buck Williams
Deputy Clerk



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