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**ATTORNEY-CLIENT PRIVILEGED
CONFIDENTIAL**

March 15, 2020

Jane Hilder
10-12 Church Street
Rutland, VT 05701

Re: Property Rented From Stuart and Patricia St. Peter

Ms. Hilder,

Thank you for asking us to help you evaluate your legal options regarding the conditions of the house you are renting at 10-12 Church Street, Rutland, Vermont 05701. This letter details our analysis, and we look forward to discussing its contents, and your situation, further.

Our opinion is that, due to the conditions of the house, you may withhold rent payment to St. Peter under two legal theories—breach of the covenant of quiet enjoyment via constructive eviction and a breach of the implied warranty of habitability. Our suggestion would be to pursue the implied warranty theory, if any, because it allows you to withhold rent payments while staying at the property and it gives you option of pursuing additional damages.

We recognize that this is difficult and personal decision to which the law, and legal system, cannot provide a complete answer. You may already be aware of the uncertainty inherent in our legal system. Just as reasonable people can reach different conclusions on an issue, there is no assurance that judicial bodies will agree with the conclusions set forth herein. We cannot absolutely predict the exact result if you assert your legal remedies in this matter, but should help you make a better informed decision concerning your present circumstances.

We have organized this letter into a discussion of the two legal theories identified above, explaining for each (1) how the house's conditions violates the relevant legal requirement, (2) what you must do to establish your legal claim, and (3) what remedies you may obtain if successful in pursuing that claim.

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A. Breach of Covenant of Quiet Enjoyment (Constructive Eviction)

The conditions you describe could constitute a breach of the covenant of quiet enjoyment and be a constructive eviction.

Actions or omissions by the St. Peters render the premises substantially unsuitable for use and the purpose for which they are leased. As you have told us, there are many defects to the property. The kitchen window was broken when you moved in and you cut yourself trying to fix it. The front door lock does not work. The bathroom toilet was clogged with paper and feces when you moved in. It also will not flush properly. The bathroom electrical wiring does not work. Water is leaking from the upstairs apartment, creating a hazardous condition in one of the rooms rendering it unusable. Finally, there is a sewage situation in the basement of the property whose smell is unbearable. With all of these conditions present, there is no question that the St. Peters failure to remedy them render the property substantially unsuitable for residential living and seriously interferes with usage of the property. This also suggests that the St. Peters intend to create these conditions.

These conditions are also sufficiently permanent to constitute a constructive eviction. Many of them were present when you moved in and continue to be there, never being fixed.

You have also notified the St. Peters of the conditions and given them reasonable time to correct them as required by the law. From what you have explained, you have told the St. Peters of most of these defects. And in response, they have done nothing. Since many of these conditions are quite extreme, the time that has passed since your notification is likely more than sufficient.

You must, however, to establish a constructive eviction vacate the premises within reasonable period of time of the St. Peters' failing to remedy the conditions. Given that the doctrine is based on the theory of eviction, you must be "evicted." And you must leave within a reasonable time of finding out they will not be fixed. Many of these conditions were present when you moved in, so you likely would need to leave soon to get protection under the covenant of quiet enjoyment.

This is, in all likelihood, the hardest decision on your part. And while we are certain that the conditions render the premises substantially unsuitable for residential use and are sufficiently permanent, we cannot account for uncertainties in the legal process that could lead to a different conclusion, no matter how wrong that would be. Such a finding would leave you open to damages payable to the St. Peters for leaving the property in the middle of the lease. This is a possible exposure of which you should be aware.

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Once you have successfully established a breach of the covenant of quiet enjoyment, you are no longer required to pay rent under the contract. You will not owe the \$140 per month for the remainder of the lease.

B. Breach of the Implied Warranty of Habitability

The condition would also breach the implied warranty of habitability.

Here, many of the conditions are either substantial violations of the housing code and/or defects that impact you and your family's safety and health. The implied warranty of habitability covers defects to essential facilities and ensures the premises are safe, clean, and fit for human habitation. Here, that warranty is clearly breached. As described above, all of the defects likely violate housing codes (again, we need to check these) and are critical to your health and safety.

It does not matter that some of the defects were obvious and you likely knew about them before moving in. The implied warranty applies equally to latent and patent defects and is not waiveable.

You do, however, just as with the covenant of quiet enjoyment, need to notify the St. Peters of the defects and give them a reasonable time to remedy. You have done this. However, unlike the covenant of quiet enjoyment, once that time expires you do not need to leave the residence to avail yourself of protection.

Once you have notified and reasonable time has passed without action, you are eligible for a rent reduction equivalent to the difference between the fair market value of the dwelling if it meet the warranty (to which courts will presume is your current rent rate of \$140) and the fair market value of the dwelling in its current condition (likely to be very low). Your rent will be decreased, and given its condition, the rent will likely be reduced substantially.

You will also be able to recover damages for any discomfort and annoyance you have suffered from the conditions. You can also get refunded for any repairs you have made to the property. And finally we can ask for punitive damages for the extreme conditions the St. Peters have let continue.

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C. Conclusion

Because of the breadth of remedies available and the fact that you do not need to leave the property to avail yourself of relief, we believe that pursuing a breach of the implied warranty of habitability claim is your best course of action, assuming you decide to take action. Again, as mentioned, there is always risk with legal actions and personal circumstances should be taken into account before exercising them.

We look forward to speaking about this matter with you further. In the meantime, if you have any questions, please feel free to contact me, Christopher Cotropia.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Cotropia', with a stylized flourish at the end.

Christopher Cotropia