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CASE #: 24-2-08848-2 KNT

The Honorable Kristin Ballinger

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

EBONIE GARNICA, individually and on behalf of those similarly situated,

No. 24-2-08848-2 KNT

Plaintiff,

[PROPOSED] FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER
GRANTING CLASS CERTIFICATION

TECTON CORPORATION and I.Q. DATA
INTERNATIONAL, INC.,

Defendants.

I. INTRODUCTION

This matter comes before the Court on Plaintiff's Motion for Class Certification, in which she seeks to certify claims for damages under CR 23(b)(3) and claims for injunctive relief under CR 23(b)(2). The Court has reviewed the parties' briefing, the evidence submitted in connection with those briefs, and has heard argument from counsel. The Court GRANTS Plaintiff's motion and hereby finds, concludes, and orders as follows:

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Civil Rule (CR) 23 governs class action certification. Washington courts liberally construe CR 23, resolving doubts in favor of certification. *See Chavez v. Our Lady of*

1 *Lourdes Hosp.*, 190 Wn.2d 507, 518 (2018); *Smith v. Behr Process Corp.*, 113 Wn. App. 306,
2 318-19 (2002); *see also Scott v. Cingular Wireless*, 160 Wn.2d 843, 851 (2007) (noting the
3 “state policy favoring aggregation of small claims for purposes of efficiency, deterrence, and
4 access to justice”). Liberal application of CR 23 saves class members the “cost and trouble of
5 filing individual suits” and “frees the defendant from the harassment of identical future
6 litigation.” *Brown v. Brown*, 6 Wn. App. 249, 257 (1971); *accord Scott*, 160 Wn.2d at 851. A
7 decision on class certification is not a decision on the merits. *Miller v. Farmer Bros. Co.*, 115
8 Wn. App. 815, 820 (2003). Still, courts go beyond the pleadings and examine the parties’
9 evidence for purposes of determining whether the criteria of CR 23 are satisfied. *Oda v. State*,
10 111 Wn. App. 79, 94 (2002).

12 2. The Court finds that the prerequisites of CR 23(a) and (b)(3) have been satisfied
13 for the following class:

14 All persons (“**Tenants**”) who vacated their unit prior to expiration of their lease
15 agreement with Tecton and from whom Tecton retained a security deposit
16 and/or collected a cancellation fee or future rent/utilities at any time since April
22, 2020.

17 Specifically, the Court finds and concludes as follows:

18 3. CR 23(a)(1): Numerosity. A class may be certified where a plaintiff
19 demonstrates the proposed class “is so numerous that joinder of all members is impracticable.”
20 *Miller*, 115 Wn. App. at 821. The declaration submitted by Plaintiff’s counsel indicates that,
21 based on the discovery exchanged to date, over 900 tenants vacated their unit prior to expiration
22 of their lease and either paid a cancellation fee or lost their security deposit or paid future rent
23 as a result. Defendant does not offer evidence to the contrary. The Court concludes that the
24 number of potential class members satisfies the numerosity criterion in this case.
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1 4. CR 23(a)(2): Commonality. CR 23(a)(2) is met where the plaintiff's claims
2 arise out of a "common course of conduct" or "common nucleus of operative facts." *Brown v.*
3 *Brown*, 6 Wn. App. 249, 255 (1971). Here, the Court finds that all class members were subject
4 to the same practices and fees, spelled out in standard, form lease agreements. Common
5 questions include but are not limited to: whether the Residential Landlord Tenant Act (RLTA)
6 permits landlords to retain security deposits or charge cancellation fees and future rent when a
7 tenant terminates her lease early; whether landlords may retain such moneys at the time of
8 move-out, before mitigating their losses; whether Defendant's lease complies with the RLTA;
9 whether the above practices constitute an unfair or deceptive act under the Consumer
10 Protection Act (CPA); whether Defendant was unjustly enriched. Plaintiff has presented
11 sufficient evidence of a common practice to meet this requirement.

13 5. CR 23(a)(3): Typicality. A named plaintiff's claim is typical if it arises out of
14 the same course of conduct and is based on the same legal theory as the class members' claims.
15 *Smith*, 113 Wn. App. at 320. Here, Plaintiff's claims are typical of the class because she
16 terminated her lease early and, like the tenants she seeks to represent, lost her security deposit
17 and paid sums she contends were not owed.

19 6. CR 23(a)(4): Adequacy of Representation. On this element, there must be no
20 adversity of interest between the class representative and other class members, and the
21 attorneys for the class representative must be qualified to conduct the proposed litigation.
22 *DeFunis v. Odegaard*, 84 Wn.2d 617, 622 (1974); *Marquardt v. Fein*, 25 Wn. App. 651, 656
23 (1980). Here, there is no dispute that Class Counsel possess the requisite qualifications to
24 conduct this litigation; likewise, there is no evidence of any conflict or adversity of interest
25 between the named Plaintiff and the class of tenants she seeks to represent.

1 7. CR 23(b)(3): Predominance. Whether common issues predominate over
2 individual ones is a “pragmatic” inquiry into whether there is a “common nucleus of operative
3 facts” as to all class claims. *Smith*, 113 Wn. App. at 323. It is not a “rigid test,” but contemplates
4 “many factors,” the central one being “whether adjudication of the common issues in the
5 particular suit has important and desirable advantages of judicial economy compared to all
6 other issues, or when viewed by themselves.” *Sitton v. State Farm Mut. Auto. Ins. Co.*, 116
7 Wn. App. 245, 254 (2003) (internal quotation and citations omitted). The Court finds that
8 predominance is satisfied here because questions of law and fact common to all class members
9 predominate over any questions affecting only individual members. Such common questions
10 of law and fact include the common questions identified above, including the question of what
11 damages are owed when a landlord charges fees/future rent, before mitigating its losses or
12 before actual damages accrue. Although Defendant has argued there are differences in the
13 conditions of the tenants’ units, the reasons for termination, and the properties, the Court finds
14 that such differences do not undermine commonality or predominance where all tenants were
15 subject to the same standard lease agreement. To the extent there are individual differences
16 related to the extent of damages owed, such questions do not undermine certification. *Smith*,
17 113 Wn. App. at 323; *accord Yokoyama v. Midland Nat'l Life Ins. Co.*, 594 F.3d 1087, 1094
18 (9th Cir. 2010) (“[T]he amount of damages is invariably an individual question and does not
19 defeat class action treatment.”); *Leyva v. Medline Indus. Inc.*, 716 F.3d 510, 515-16 (9th Cir.
20 2013) (same).

21 8. CR 23(b)(3): Superiority. “[W]here individual claims of class members are
22 small, a class action will usually be deemed superior to other forms of adjudication.” *Miller v.*
23 *Farmer Bros. Co.*, 115 Wn. App. 815, 828 (2003). Here, the Court finds that class resolution

1 is superior to other available methods for the fair and efficient adjudication of this controversy.

2 The alternative to class resolution would be hundreds of individual claims.

3 9. In addition to seeking certification of her damages claims under CR 23(b)(3),
4 Plaintiff moves to certify claims for class-wide injunctive or declaratory relief under CR
5 23(b)(2). Defendant does not oppose such request and the Court finds that the additional
6 prerequisite of (b)(2) has been satisfied; namely, that Defendant has acted on grounds generally
7 applicable to all tenants.

8 10. Pursuant to CR 23, Plaintiff Ebonie Garnica is hereby appointed and designated
9 as the class representative. Lindsay Halm and Andrew Boes of Schroeter Goldmark & Bender
10 and Jason Anderson and Tyler Santiago of Anderson Santiago, PLLC are hereby appointed
11 and designated as Class Counsel.

13 11. The parties shall confer and attempt to agree upon a Class Notice within 20
14 court days from the date of this Order. If agreement is reached, the proposed Class Notice shall
15 be submitted for approval by the Court. If no agreement can be reached, each party shall submit
16 to the Court its proposed Class Notice within 25 court days from the date of this Order.

18 12. Once a Class Notice is approved, Defendant's counsel shall provide to Class
19 Counsel, within ten (10) court days of the date of such approval, a complete list of the class
20 members with their last known addresses, telephone numbers, and Social Security numbers
21 (which shall only be used to identify correct addresses if necessary). The Social Security
22 numbers shall be kept strictly confidential by Class Counsel.

23 13. Class Counsel shall cause the Class Notice to be mailed to class members within
24 30 (thirty) calendar days of receipt of the complete list of class members and their last known
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1 addresses, telephone numbers, and any other relevant contact information. Class Counsel may
2 employ an experienced third-party administrator to provide this notice.

3 14. The class members shall have 30 (thirty) calendar days from the mailing of the
4 Class Notice to return their exclusion (opt-out) requests advising counsel of their desire to opt-
5 out of the case.

6 15. The Class Notice shall advise class members who do not request exclusion that
7 they may enter an appearance through counsel.

8 16. In the event any Class Notice is returned as undeliverable, all counsel and the
9 third-party administrator shall use their best efforts to obtain corrected addresses. When
10 corrected addresses are obtained, Class Counsel or the third-party administrator shall promptly
11 mail the Class Notice to the affected individuals, with a new deadline for returning the
12 exclusion forms at least thirty (30) calendar days after the date of the new mailing.

13 IT SO ORDERED this ____ day of _____ 2025.
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18 The Honorable Kristin Ballinger
19 Judge, King County Superior Court
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PRESENTED BY:
SCHROETER GOLDMARK & BENDER

s/Lindsay Halm
LINDSAY L. HALM, WSBA #37141

**King County Superior Court
Judicial Electronic Signature Page**

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Judge: Kristin Ballinger

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