

**Court of Appeals, State of Michigan**

**ORDER**

Hyperbaric Management Inc v St John Macomb Oakland Hospital

Christopher M. Murray  
Presiding Judge

Docket No. 327777

Michael J. Talbot

LC No. 14-015654-CK

Kirsten Frank Kelly  
Judges

---

The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(E)(2), in lieu of granting leave to appeal, the Court orders that the Wayne Circuit Court's April 2, 2015 order denying defendant's motion for summary disposition is REVERSED. Plaintiff has not demonstrated any genuine issue of material fact concerning whether the flood rendered the premises untenable. Moreover, because the premises were untenable, the plain language of the lease agreement entitled defendant to terminate the lease in the manner undertaken in this case. See *Quality Prod & Concepts Co v Nagel Precision, Inc*, 469 Mich 362, 375; 666 NW2d 251 (2003) (Court interprets plain and unambiguous contractual language as written). Further, because the written lease governed the parties' rights and duties under these circumstances, plaintiff's claim for unjust enrichment cannot lie. *King v Ford Motor Credit Co*, 257 Mich App 303, 327; 668 NW2d 357 (2003). Finally, where there was no evidence that defendant forcibly ejected plaintiff from the premises, the anti-lockout statute, MCL 600.2918(1), is inapplicable. We therefore REMAND for entry of an order granting defendant's motion for summary disposition.

The motion to stay proceedings is DENIED as moot.

This order is to have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

SEP 04 2015

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jerome W. Zimmer Jr.  
Chief Clerk