

CITY OF TAKOMA PARK
COMMISSION ON LANDLORD-TENANT AFFAIRS

Amoy Williams
116 Lee Ave., #105
Takoma Park, MD 20912
Tenant

v.

COLTA Case No. 07-15T

Reden Management
11912 Maple Ave.
Rockville, MD 20852
Landlord

OPINION AND ORDER

I. INTRODUCTION.

On March 20, 2007, Queveta Payton (“Tenant”), a former tenant of 117 Lee Avenue, #36, Takoma Park, Maryland (“Apartment”), filed a Complaint with the City of Takoma Park Commission on Landlord-Tenant Affairs (hereinafter referred to as “COLTA” or “Commission”) against Reden Management (“Landlord”), the Property owner’s agent. This Complaint was docketed as Case No. 07-0-15T.

The Tenant’s Complaint alleged that the Landlord wrongfully withheld her security deposit and sought a refund of her security deposit plus accrued interest.

The Commission has jurisdiction over this matter pursuant to Section 6.24.020 of the *Takoma Park Code*. In accordance with Section 6.24.080 of the *Takoma Park Code*, the Commission held a

public hearing on April 24, 2007. The Tenant was present at the hearing. The Tenant, as the party filing the Complaint, has the burden of proof by a preponderance of the evidence. § 6.24.080 (J). No one attended the hearing on behalf of the Landlord.

II. APPLICABLE LAW.

Section 8-203 of the Real Property Article of the *Annotated Code of Maryland*, which is incorporated by reference in section 6.16.120 of the *Takoma Park Code*, governs security deposits under residential leases. Section 8-203(f) authorizes the withholding of a security deposit for unpaid rent, damage due to breach of lease, and physical damage caused by the tenant in excess of ordinary wear and tear. Section 8-203(g) requires a landlord who withholds any portion of the security deposit to provide to the tenant, within 45 days of the termination of the tenancy, a “written list of damages claimed . . . together with a statement of the cost actually incurred.” Security deposits accrue simple interest in six-month intervals at a rate of 3% per annum. *Md. Code Ann.*, Real Prop. Art., §8-203(e).¹

III. EVIDENTIARY AND HEARING SUMMARY.

The Tenant entered into a lease for the Apartment commencing on February 3, 2004, and terminating on January 31, 2005. Exhibit 4A. The Tenant had previously leased an apartment located at 115 Lee Avenue that was owned by the owner of 117 Lee Avenue. Exhibit 4. She paid a \$500.00 security deposit on March 31, 2003. Exhibit 4. The Tenant testified that she had to move from 115 Lee Avenue to the Apartment at 117 Lee Avenue during her lease term because the roof at 115 Lee Avenue was leaking. She testified that the Landlord transferred the security she had paid for 115 Lee Avenue

¹ Effective October 1, 2004, the legislature amended *Md. Code Ann.*, Real Prop. Art., §8-203(e) to reduce the statutory interest rate on security deposits from 4% to 3%. The 3% statutory rate is applicable to six-month periods ending after October 31, 2004. *See Advice of Counsel by Attorney General on HB723, Interest on Security Deposits* (July 27, 2004).

to her Apartment at 117 Lee Avenue instead of returning it to her and requiring her to pay a new deposit pursuant to the lease for the Apartment, Exhibit 4A.

By letter dated December 4, 2006, the Tenant notified the Landlord of her intent to vacate the Apartment on January 30, 2007. Exhibit 5. In a letter dated December 18, 2006, the Tenant requested that the Landlord conduct an exit inspection to determine whether she had caused any damage to the Apartment. The Tenant also requested confirmation that she was current on her rental payments and advised the Landlord of an address where she could receive correspondence. Exhibit 7

In an undated letter to the Tenant, the Landlord stated that Yancy Suber had inspected the Apartment and identified several items of damage and that the Tenant owed late fees of \$270.00 for six months. Exhibit 9. The Landlord also stated that he could not conduct a final inspection until the Tenant had moved out of the Apartment. Exhibit 9.

In a letter to the Landlord dated January 3, 2007, the Tenant denied causing any of the damage described by the Landlord except damage to the door and wall, which she stated that she would repair before vacating the Apartment. Exhibit 10. The Tenant enclosed a check for \$270.00 for the accrued late fees. Exhibit 10. She sent the letter via certified mail, Exhibit 10, but she testified that it was returned to her unopened.

In a letter to the Tenant dated January 8, 2007, the Landlord asserted that it had not required the Tenant to pay a security deposit because she had a full payment voucher from the Housing Opportunities Commission. Exhibit 11. The Landlord also confirmed that “we will perform the inspection, at your connivance [sic], on the day you move out,” and explained that Mr. Suber “is on site full time during the days and evenings” and would inspect the Apartment once she had removed all of her belongings. Exhibit 11.

In a letter to the Tenant dated January 22, 2007, the Landlord advised the Tenant that it would be conducting the inspection on Thursday, January 22, at noon. Exhibit 12. January 22, 2007, was a Monday, and the Tenant testified that the Landlord intended to say, and in fact conducted the inspection, on January 25, 2007. The Tenant testified that she told the Landlord that she could not be present at that time because she had to work, and that the Landlord told her that that was the only time it could complete the inspection. The Tenant testified that she had not yet cleaned the Apartment when the inspection occurred because she was in the middle of packing her belongings. The Tenant testified that the Landlord never explained why it had decided to inspect the Apartment before she moved out and never explained why it could only conduct the inspection on January 25, 2007, at noon.

In a letter to the Tenant dated February 8, 2007, the Landlord sent the Tenant copies of photographs of alleged damage to the Apartment. The Landlord stated that it did not know the cost of repairing the damage, but estimated the cost to be \$2,000.00. Exhibit 14. The Tenant denied responsibility for the damages, exhibit 15, and submitted photographs of the Apartment taken after she had completed her move out, Exhibit 17.

In a letter to the Tenant dated March 6, 2007, the Landlord advised the Tenant that it had “spent more money in repairs, then [sic] the value of your security deposit.” The Landlord also advised the Tenant that it was waiting to hear from her regarding the unpaid late fees. Exhibit 16.

The Tenant testified that she never received a statement alleging the costs actually incurred by the Landlord as a result of the damages. The Tenant further testified that the Landlord never explained to her why it had claimed that she had not paid a security deposit.

At the hearing, the Tenant stated that she was seeking the return of her \$500.00 security deposit plus accrued interest.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

1. The Commission finds that the Tenant entered into a lease commencing on February 3, 2004, and terminating on January 31, 2005. Exhibit 4A. The Commission finds that the tenancy converted to a month-to-month tenancy by operation of law on January 31, 2005.

2. The Commission finds that the Tenant paid a security deposit of \$500.00 on or about March 31, 2003. Exhibit 4.

3. The Commission finds that the Tenant vacated the Property on January 31, 2007.

4. The Commission finds that the Tenant's \$500.00 security deposit accrued interest from March 31, 2003, through the present. This period includes five six-month periods during which the deposit earned simple interest at the statutory rate of 4% per annum, amounting to \$50.00, and five six-month periods during which the deposit earned simple interest at the statutory rate of 3% per annum, amounting to \$37.50, for a total of \$87.50.

5. The Commission finds that the Landlord did not comply with Section 8-203(g) of the Real Property Article of the *Maryland Code*, which required that it send to the last known address of the Tenant, within 45 days of the termination of the tenancy, a "written list of damages claimed . . . together with a statement of the cost actually incurred." Accordingly, the Commission holds that the Landlord forfeited its right to withhold any portion of the Tenant's security deposit.

The Commission notes that the Maryland security deposit law bestows a benefit upon landlords by enabling them to collect damages from tenants without the expense or inconvenience of first proving the damages in court. However, to take advantage of this benefit, the landlord must comply with the law's notice requirements, which protects tenants from abusive withholding of their security deposits.

VI. ORDER.

It is this 30th day of May 2007, by the City of Takoma Park Commission on Landlord-Tenant Affairs, ORDERED,

1. That the Landlord shall pay to the Tenant \$587.50.

Kelly Bosma,
Presiding Commissioner

Robert Liebreich, Commissioner

Enoch Bevel, Commissioner

Notice of Appeal Rights

Any party aggrieved by a final Opinion and Order of the Commission on Landlord-Tenant Affairs may appeal to the Circuit Court of Montgomery County, Maryland, under the Court rules governing judicial review of administrative decisions within thirty (30) calendar days from the date of the final Opinion and Order. The filing of a petition for judicial review will not stay a final Opinion and Order unless so ordered by a court of competent jurisdiction.

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