

Appellate Court Rules Landlord May Keep Tenant's Entire Security Deposit

[Editor's Note: Landlord Law & Multi-Housing Report includes expert analysis of the latest legal developments in the rental housing sector as well as news about the multi-housing market, landlord-tenant relations and successful management strategies. Rental housing laws vary from state to state and some may not be applicable to California; however, most cases contain valuable lessons for housing providers.]

Ohio. An appellate court reverses a lower court's decision which awarded a tenant double damages against his landlord for wrongfully withholding his security deposit. The court rules the landlord was legally entitled to retain the deposit because the tenant breached the lease agreement.

The tenant paid a \$750 security deposit when he signed his lease agreement with the landlord. The one-year lease was renewed three times and the last lease term was set to expire in July 2007.

But the tenant vacated early in October 2006 and informed his landlord he was moving. The tenant paid his November rent after he vacated but did not pay any additional rent to the landlord.

The landlord was unable to find a new tenant for the apartment for three months and as a result, the landlord did not return the tenant's security deposit.

The tenant sued the landlord for failing to return his \$750 security deposit and claimed his landlord owed double damages by the state's security deposit statute.

The tenant claimed he fully complied with the terms of his lease because he gave proper notice of his intent to vacate before he moved out. He even alleged the landlord breached the lease first by allowing the building to deteriorate and by failing to provide sufficient parking.

The case was assigned to a magistrate for trial. The magistrate ruled that the landlord did not breach the lease and instead held that the tenant breached the lease by moving out before the lease expired – even though he gave proper notice.

The magistrate said the landlord did not wrongfully withhold his tenant's security deposit and entered judgment in favor of the landlord.

The tenant filed an objection to the magistrate's decision and the trial court sustained part of the tenant's objection.

The court held that since the tenant complied with the notice provisions of the lease, he "had not forfeited his security deposit." The court awarded the tenant his security deposit and the double damages he claimed under the statute.

The landlord appealed the trial court's decision and argues on appeal that the trial court wrongly construed the lease provisions.

The appellate court says the trial court was required to read the lease "as a whole and give effect to each provision if it is reasonable to do so." And it said the trial court must enforce the plain and ordinary meaning of the language as written if it is unambiguous.

The last lease began on August 1, 2005 and was not set to expire until July 31, 2007. The tenant was obligated to pay \$765 per month in rent during the entire lease term says the court.

The lease contained a notice provision which stated the security deposit would be forfeited if the tenant did not provide the required notice before terminating the lease.

The lease also contained another provision which stated the notice provision "does not negate and/all remaining lease terms."

According to the appellate court, these provisions did not allow the tenant to terminate his lease early and vacate before July 31, 2007 even if a 30-day notice was given.

The duration of the lease was not affected by the tenant's notice to terminate and therefore his failure to pay rent through July 2007 was a material breach of the lease.

Because his breach of the lease caused the landlord to incur damages in excess of his security deposit, the landlord did not have to return the tenant's security deposit.

Lesson: The tenant could not unilaterally give a notice and terminate the lease before it expired and the magistrate and appellate court agreed he was responsible for rent through the end of the lease term. Since the damages caused by the early termination exceeded the amount of the security deposit, the landlord was not required to return any of the deposit to the tenant. The landlord may have been required to return some or all of the deposit if the landlord had located a new tenant in October or November which would have mitigated the landlord's damages.

Matthew Adaranijo, Plaintiff-Appellee, vs. Morris Investment Company, Defendant-Appellant. 2008 Ohio App.

[Editor's Note: California law requires a landlord to provide written accounting of the security deposit within 21 days of the move-out date. If a complete accounting cannot be accurately provided due to breach of the lease term, a partial accounting must be submitted within the required time period noting that once a replacement tenant is located, the final accounting will follow.]

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