

**BEFORE THE
COMMISSION ON LANDLORD TENANT AFFAIRS
FOR MONTGOMERY COUNTY, MARYLAND**

In the matter of:	*	
	*	
Ariel Veroske, Kristen Sween	*	
And	*	
Kate Rahbari	*	
Complainants	*	
	*	
V.	*	Case No. 35607
	*	
Renny Bowen	*	
And	*	
Gilbert Bowen	*	
Respondents	*	

Rental Facility: 12301 Braxfield Court, #2, Silver Spring, Maryland (License No. 46197)

DECISION AND ORDER

The above captioned case having come before the Commission on Landlord-Tenant Affairs for Montgomery County, Maryland (“Commission”), pursuant to Sections 29-10, 29-14, 29-41, and 29-44 of the Montgomery County Code, 2001, as amended, and the Commission having considered the testimony and evidence of record, it is therefore, this 20th day of July, 2016, found, determined, and ordered, as follows:

BACKGROUND

On November 30, 2015, Ariel Veroske, Kristen Sween, and Kate Rahbari (“Complainants”), former tenants at 12301 Braxfield Court, #2, Silver Spring, Maryland (“Property”), a condominium apartment rental property in Montgomery County, Maryland, filed a complaint with the Office of Landlord-Tenant Affairs (“Office”) within the Department of Housing and Community Affairs (“Department”), in which they alleged that their former landlords, Renny Bowen and Gilbert Bowen (“Respondents”), owners of the Property: 1) failed to refund any portion of their \$1,850.00 security deposit plus accrued interest after the termination of their tenancy, in violation of Section 8-203(e)(1) of the Real Property Article, Annotated Code of Maryland, as amended (“Real Property Article”); 2) failed to send them an itemized list of damages, together with a statement of the costs actually incurred to repair those damages, within 45 days after the termination of their tenancy, in violation of Section 8-203(g)(1) of the Real Property Article, and therefore, pursuant to Section 8-203(g)(2), the Respondents have forfeited their right to withhold any part of their security deposit for damages; and 3) based on the Respondents’ unreasonable withholding of all or a portion of the security

deposit plus accrued interest, pursuant to Section 8-203(e)(4) of the Real Property Article, they may be entitled to a penalty of up to three times the unreasonably withheld amount.

The Complainants are seeking an Order from the Commission for the Respondents to refund their entire \$1,850.00 security deposit plus interest, and a penalty of up to three times the amount of the security deposit that was unreasonably withheld by the Respondents.

After determining that the complaint was not susceptible to conciliation, the Department duly referred this case to the Commission for its review, and on March 1, 2016, the Commission voted to hold a public hearing on May 10, 2016. The public hearing in the matter of Ariel Veroske, Kristen Sween, and Kate Rahbari v. Renny Bowen and Gilbert Bowen relative to Case No. 35607 was held on May 10, 2016.

The record reflects that the Complainants and the Respondents were given proper notice of the hearing date and time. The Commission also notes that the Respondent Gilbert Bowen was personally served with the "Summons and Statement of Charges and Notice of Hearing" on April 7, 2016. Present and sworn at the hearing and presenting evidence were Complainant Ariel Veroske, and Complainant Kristen Sween. Complainant Kate Rahbari was not in attendance. The Respondents, Renny Bowen and Gilbert Bowen, failed to appear at the hearing. Also present was Jane Blackwell, Investigator, Office of Landlord-Tenant Affairs.

Without objection, the Commission entered into the record the case file compiled by the Department, identified as Commission's Exhibit No. 1. The Commission also entered into the record one (1) exhibit offered by the Complainants, copies of three checks dated July 16, 2016, made payable to Respondent Renny Bowen, all identified as Complainants' Exhibit No. 1.

Furthermore, the Commission extended the time period within which it would decide this matter pursuant to Section 7.1 of Appendix L, "Regulations on Commission on Landlord-Tenant Affairs," of the County Code.

FINDINGS OF FACT

Based on the testimony and evidence of record, the Commission makes the following Findings of Fact:

1. On September 1, 2014, Respondent Renny Bowen and the Complainants signed a twelve-month lease agreement ("Lease") for the rental of the Property, which commenced on September 1, 2014, and expired on August 31, 2015, for a monthly rent of \$1,850.00.

2. On or about September 1, 2014, the Complainants paid the Respondents a "security deposit" in the amount of \$1,850.00, which amount is receipted in the Lease. The Lease does not contain the security deposit disclosures required by Sections 8-203(f) and 8-203.1 of the Real Property Article.

3. The Respondents failed to provide the Complainants with the security deposit disclosures required by Sections 8-203(f) and 8-203.1 of the Real Property Article.

4. On July 16, 2015, the Complainants sent the Respondent Renny Bowen proper written notice of their intent to terminate the tenancy and vacate the Property effective August 31, 2015.

5. The Commission finds credible Complainant Ariel Veroske's testimony that they vacated the Property effective August 31, 2015, paying rent in full through that date; and that the Property was in good condition with no damages caused by their tenancy in excess of ordinary wear and tear resulting from their tenancy.

6. The Commission finds that the Complainants' tenancy terminated as of August 31, 2015.

7. The Commission finds credible Complainant Kristin Sween's testimony that the Complainants did not receive an itemized list of damages from the Respondents or return of the security deposit plus accrued interest.

8. The Commission finds that the Respondents failed to send the Complainants any notification regarding withholdings from the security deposit plus accrued interest, and failed to return any portion of the security deposit plus accrued interest.

9. The Commission finds that on January 6, 2016, the Office sent correspondence to the Respondents requesting documentation related to her failure to return the security deposit plus accrued interest (Page 78 and 79 - Commission's Exhibit 1); and on February 4, 2016, the Office sent correspondence to the Respondents requesting their participation in a conciliation conference scheduled for February 22, 2016, and documentation related to their failure to return the security deposit plus accrued interest (Page 80 and 81 - Commission's Exhibit 1).

10. The Commission finds that the Respondents failed to provide the Office with information and documentation requested, and failed to attend the conciliation conference (Page 86 - Commission's Exhibit 1).

11. The Commission finds that there is no probative evidence to indicate the Respondents incurred any actual costs as a result of the Complainants' tenancy.

CONCLUSIONS OF LAW

Accordingly, based upon a fair consideration of the testimony and evidence contained in the record, the Commission on Landlord-Tenant Affairs concludes:

1. The Commission concludes that that the Respondents' failure to provide proper disclosures regarding the security deposit required by Section 8-203.1 of the Real Property Article has created a defective tenancy.

2. The Commission concludes that that the Respondents failure to provide proper disclosures regarding the security deposit required by Section 8-203(f)(1)(i) to (vi) of the Real Property Article has created a defective tenancy, and pursuant to Section 8-203(f)(1)(i) of the

Real Property Article, the Respondents have forfeited their right to withhold any part of the security deposit for damages.

3. The Commission concludes that the Respondents' failure to send the Complainants within 45 days after the termination of their tenancy, a written list of the damages together with a statement of the cost actually incurred, pursuant to Section 8-203(g)(1) and (2) of the Real Property Article has created a defective tenancy, and pursuant to Section 8-203 (g) (2), the Respondents have forfeited their right to withhold any portion of the Complainants' security deposit for damages.

4. The Commission concludes that the Respondents' failure to return the Complainants interest in the amount of \$41.28 which had accrued on their security deposit constitutes a violation of Section 8-203(e)(1) of the Real Property Article, and has created a defective tenancy.

5. The Commission concludes that the Respondents' failure to return to the Complainants, the security deposit (\$1,850.00) plus accrued interest (\$41.28) in the total amount of \$1,891.28, within 45 days after the end of tenancy, constitutes a violation of Section 8-203(e)(1) of the Real Property Article, and has created a defective tenancy.

6. The Commission concludes that in addition to the Respondents' failure to return \$1,841.28 of the Complainants' security deposit plus accrued interest, the Respondents also failed to communicate with the Complainants and the Office of Landlord Tenant Affairs as to why there was a reasonable basis to withhold any portion of the Complainants' security deposit plus accrued interest. Without any communication or documentation provided by the Respondents, the record is devoid of any evidence to contradict the conclusion that the Respondents acted in bad faith.

7. To award a penalty, as requested by the Complainants, pursuant to Section 29-47(b)(3) of the County Code, the Commission must consider the egregiousness of the Respondents' conduct in wrongfully withholding the Complainants' security deposit and whether or not the Respondents acted in bad faith or have a prior history of wrongful withholding of a security deposit. The Commission concludes that the failure by the Respondents to refund \$1,841.28 of the Complainants' security deposit plus accrued interest was willful, unreasonable and egregious, and caused a defective tenancy. Based on the evidence, the Commission concludes that the Respondents' conduct does rise to the level of bad faith and egregiousness necessary to award a penalty. Therefore, an award of \$3,682.56 as a penalty is granted.

ORDER

In view of the foregoing, the Commission on Landlord-Tenant Affairs hereby orders that the Respondents must pay the Complainants **\$5,523.84**, which sum represents the Complainants' security deposit (\$1,800.00), plus accrued interest (\$41.28), and a penalty (\$3,682.56).

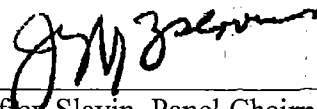
Commissioner Mora Rogers, Commissioner Charles Marschke, and Commissioner Jeffrey Slavin, Panel Chairperson, unanimously concurred in the foregoing decision.

To comply with this Order, Respondents, Renny Bowen and Gilbert Bowen, must forward to the Office of Landlord-Tenant Affairs, 100 Maryland Avenue, 4th Floor, Rockville, MD 20850, within thirty (30) calendar days of the date of this Decision and Order, a check, made payable to Ariel Veroske, and Kristen Sween, and Kate Rahbari, in the amount of \$5,523.84.

The Respondents, Renny Bowen and Gilbert Bowen, are hereby notified that Section 29-48 of the County Code declares that failure to comply with this Decision and Order is punishable by a \$500.00 civil fine Class A violation as set forth in Section 1-19 of the County Code. This civil fine may, at the discretion of the Commission, be imposed on a daily basis until there is compliance with this Decision and Order.

In addition to the issuance of a Class A Civil Citation and \$500.00 civil fine, should the Commission determine that the Respondents have not, within thirty (30) calendar days of the date of this Decision and Order, made a bona fide effort to comply with the terms of this Decision and Order, it may also refer the matter to the Office of the County Attorney for additional legal enforcement.

Any party aggrieved by this action of the Commission may file an administrative appeal in the Circuit Court for Montgomery County, Maryland, within thirty (30) days from the date of this Decision and Order, pursuant to the Maryland Rules governing administrative appeals. Pursuant to Section 29-49 of the County Code, should the Respondents choose to appeal the Commission's Order, they must post a bond with the Circuit Court in the amount of the award (\$5,523.84) if a stay of enforcement of this Decision and Order is sought.



Jeffrey Slavin, Panel Chairperson
Commission on Landlord-Tenant Affairs