

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

In the Matter of David Bridgman and Corrie Bridgman Complainants	
v.	<u>Case No. 10066</u>
Minh Vu Hoang Rental Facility: 5204 Alta Vista Road, Bethesda, Maryland (License #032803) Respondent	

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DECISION AND ORDER

The above captioned case, having come before the Commission on Landlord-Tenant Affairs for Montgomery County, Maryland (the "Commission"), pursuant to Sections 29-14A, 29-38 and 29-40 of the Montgomery County Code 1994, as amended ("County Code"), and the Commission having considered the testimony and evidence of record, it is, this 8th day of August, 2000, found, determined and ordered, as follows:

BACKGROUND

On October 4, 1999, David and Corrie Bridgman (the "Complainants"), former tenants at 5204 Alta Vista Road, Bethesda, Maryland (the "Property"), a then unlicensed single family rental facility in Montgomery County, Maryland, filed a formal complaint with the Department of Housing and Community Affairs (the "Department"). The Complainants alleged that Minh Vu Hoang (the "Respondent"), owner of the Property: 1) assessed unjust charges against their security deposit after the termination of their tenancy in violation of Section 8-203(g)(1) of the Annotated Code of Maryland, Real Property Article, 1996, as amended ("State Code"); 2) failed to send them an itemized list of damages together with a statement of actual costs incurred within 30 days after the termination of their tenancy, in violation of Section 8-203(h)(1) of the State Code; 3) failed to return their security deposit within forty-five (45) days after the termination of their tenancy, in violation of Section 8-203(f)(1) of the State Code; and 4) failed to return their curtains and blinds or allow them to retrieve them from the Property after they vacated.

The Complainants seek an Order from the Commission for the Respondent to return their security deposit (\$5,980.00), plus accrued interest (\$239.20) as well as \$2,000.00 as compensation for their blinds and curtains which the Respondent failed to permit them to recover. The total claimed by the Complainants at the beginning of the hearing was \$8,219.20. During the hearing, the Respondent delivered and the Complainants accepted a check in the amount of \$3,812.20 in partial satisfaction of the Complainants' claims. A balance of \$4,407.00 remains in dispute. The Complainants do not claim damages under State Code Section 8-203(f)(4).

In response to the Complainants allegations, the Respondent asserts that: 1) she was entitled to deduct the expenses charged against the Complainants' security deposit for damages in excess of ordinary wear and tear; 2) she sent the Complainants an itemized list of damages within thirty (30) days after their tenancy ended, August 28, 1999; 3) because there was a dispute regarding the security deposit, she did not return it, pending the outcome of the Complainants' dealings with the Office of Landlord-Tenant Affairs; and 4) she attempted to make arrangements for the Complainants to retrieve their curtains, curtain rods and blinds but was not successful.

After determining that the subject complaint was not susceptible to conciliation, the Department duly referred this matter to the Commission for its review. On May 2, 2000, the Commission accepted jurisdiction of the case and scheduled a public hearing for June 27, 2000.

The record reflects that the parties were given proper notice of the hearing date and time. Present at the hearing and presenting testimony and evidence were the Complainants, David and Corrie Bridgman, the Respondent, Minh Vu Hoang, and Jose Felix Rodriguez, handyman and witness for the Respondent.

Without objection from the Complainants or the Respondent, the Commission entered into the record of these proceedings the case file compiled by the Department, identified as Commission's Exhibit No. 1. Without objection from the Complainants or the Respondent, the Commission also accepted into evidence: (1) a fax from the new tenants to the Respondent regarding the condition of the Property at move-in, identified as Respondent's Exhibit No. 1; (2) the rental application for 5204 Alta Vista Road from the new tenants, identified as Respondent's Exhibit No. 2; and, (3) a 2' by 2' piece of carpet removed from the basement of the Property, identified as Respondent's Exhibit No. 3.

The Commission notes that Title VIII, "Landlord and Tenant," of the State Code, including Section 8-203 "Security Deposits," has been amended, and that the amendments became effective as of October 1, 1999. However, the termination of the Complainants' tenancy and the Respondent's alleged violations of Section 8-203 took place prior to October 1, 1999, and therefore, the Commission must apply the law as it was prior to the amendment;

FINDINGS OF FACT

Based on the testimony and evidence of record, the Commission makes the following findings of fact:

1. On July 22, 1998, the parties entered into a one-year lease agreement for the rental of the Property, which commenced September 1, 1998, and expired August 31, 1999;
2. Complainants paid a security deposit of \$5,980.00 in two equal installments of \$2,990.00. These payments were made on July 22, 1998, and August 31, 1998, and the total security deposit was received in the lease;
3. By notation on the rental application and correspondence dated August 31, 1998, the Complainants notified the Respondent that the house was accepted subject to the following:
 - a. "A major leak had disfigured the basement ceiling and has damaged/destroyed carpet. Accepted on the basis that this will be repaired/replaced within one week
 - b. Garage door opener on order. To be delivered in 2 weeks.";
4. By mutual consent of the parties, the Complainants vacated the Property and returned the keys on August 15, 1999;
5. Complainants paid rent for the period August 1-15, 1999;
6. The Commission finds that Peter Hoang was the Respondent's agent, with authority to inspect the premises at the end of the tenancy, bind the Respondent as to the amount of the security deposit to be returned, and the recovery of the Complainants' personal property;
7. On August 14, 1999, the Complainants and Peter Hoang conducted a move-out inspection of the Property and noted, in writing, the following:
 - a. "Garage to be cleaned and aired
 - b. Remaining clothes etc. in master bedroom to be cleared
 - c. Screen door to be replaced
 - d. Curtains and blinds to be removed by 15 September
 - e. Basement carpet to be cleaned
 - f. Nothing will remain in the house as trash";
8. The deposit was to be returned to the Complainants on Thursday, August 19, 1999, once the items noted during the inspection had been satisfactorily remedied;
9. All items noted on the walk through list were satisfactorily remedied;
10. The Complainants did not damage the Property in excess of ordinary wear and tear.
11. New tenants moved into the Property on August 29, 1999;
12. After the Complainants had moved from the Property, Respondent claimed additional deductions from the security deposit as follows:
 - a. "Reduction of month of May and June rent and subletting matter; We agreed that I will take \$1,000 off the rent in exchange to show the property in May and June. We further agreed that in the summer if you were successful subletting the house then I do not give you discount, we are simply exchange our plan to feed our needs."
 - b. The following damages need to be addressed:

- i. Icemaker on/off lever is broken and jammed into discharge container (\$35 material, \$75 ; Labor)
- ii. Door and or frame damaged by dog (scratching): between garage and stairway; the sliding door from dining room had permanent sharp cut (\$250).
- iii. Carpet and padding are permanent damaged by odor the soak into (sic) it. We must took it off and replace it. There is no way to salvage it (\$567).
- iv. Yard is left overgrown, house need excessive cleaning. It took three people working two days to make it livable (\$10/hours x 48 hours = \$480.00).
- v. Deposit: \$5,980 plus 4% or \$6,219.20. Subtract the above:

\$6,219.20

1,000.00

1,407.00

Balance \$3,812.20";

- 13. The parties had an agreement that the Complainants' rent would be reduced by \$500 per month for the months of May and June 1999 if the Complainants allowed the Property to be shown;
- 14. Complainants permitted the Respondent to show the Property during the months of May and June 1999;
- 15. The Complainants sublet the Property during the summer of 1999;
- 16. The parties had no agreement as to the effect of subletting;
- 17. Section 29-26(r) of the County Code requires that a written lease contain a provision permitting the tenant to sublease with the landlord's written permission, which permission may not be unreasonably withheld;
- 18. The Complainants were told by Mr. Peter Hoang to remove their curtains, curtain rods and venetian blinds by September 15, 1999. The new tenants refused to allow them access to the Property to recover the curtains, curtain rods and venetian blinds;
- 19. The Complainants offered no compelling evidence of the value of the curtains, curtain rods, and venetian blinds.
- 20. The Complainants offered no evidence that the Respondent caused the new tenants not to allow the Complainants to recover their curtains, curtain rods, and venetian blinds;
- 21. While at the initiation of the tenancy, the Property was not licensed, subsequently it was properly licensed by the Respondent;
- 22. The Respondent failed to refund any portion of the Complainants' \$5,980.00 security deposit plus accrued interest (\$239.00) within forty-five (45) days after the termination of their tenancy;
- 23. The Respondent returned \$3,812.20 to the Complainants at the hearing; and,
- 24. The Respondent has failed to return \$2,407.00 representing the balance of the Complainants' security deposit plus accrued interest.

CONCLUSIONS OF LAW

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

- 1. The Complainants did not damage the Property in excess of ordinary wear and tear as a result of their tenancy;
- 2. The Respondent was not entitled to withhold any monies from the security deposit on the basis of damage to the Property;

3. The Respondent was not entitled to withhold any monies from the security deposit based on the fact that the Complainants sublet part of the Property for two months;
4. The Complainants are entitled to the rent credit they received for the months of May and June 1999 in return for their allowing the Property to be shown;
5. The Respondent improperly withheld \$2,407.00 of the Complainants' security deposit plus accrued interest, in violation of Section 8-203(g) of the State Code;
6. The Commission does not find that the Complainants are entitled to any reimbursement for their curtains, curtain rods and venetian blinds; and,
7. The Respondent caused a defective tenancy by failing to properly handle and dispose of the Complainants' security deposit in accordance with the requirements of Section 8-203 of the State Code, and Paragraph 3, "Security Deposit," of the Lease.

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ORDER

In view of the foregoing, the Commission on Landlord-Tenant Affairs hereby orders the Respondent to pay the Complainants **\$2,407.00**, which sum represents a refund of the balance of the Complainants' security deposit plus accrued interest.

The foregoing Decision was concurred unanimously by Commissioner Tina Smith Nelson, Commissioner John Peterson, and Commissioner Gary Everngam, Chair.

To comply with this Order, the Respondent must forward to the Office of Landlord-Tenant Affairs, 100 Maryland Avenue, 4th Floor, Rockville, MD 20850, within fifteen (15) calendar days of receipt of this Decision and Order, a check payable to David and Corrie Bridgman in the amount of \$2,407.00.

The Respondent is hereby notified that Section 29-44 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 the Respondent complies with this Order.

In addition to the issuance of a \$500.00 civil fine Class A violation, should the Commission determine that the Respondent has not, within fifteen (15) calendar days of receipt 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 County Attorney for additional enforcement.

Any party aggrieved by the action of the Commission may file an administrative appeal to the Circuit Court of Montgomery County, Maryland, within thirty (30) days from the date of this Decision and Order, pursuant to the Maryland Rules governing administrative appeals.

Gary Everngam, Panel Chair

Commission on Landlord-Tenant Affairs