

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

In the matter of:	*	
	*	
Galen Andrew Scott	*	
Sarah Lowing Scott	*	
Complainants	*	
	*	
v.	*	Case No. 35592
	*	Investigator: Leslee Clerkley
Benjamin Costa	*	
Kalena Costa	*	
Respondents	*	

Single family: 2711 Jennings Road, Kensington, Maryland 20895 (Rental Facility License No. 59426)

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, (“County Code”) and the Commission having considered the testimony and evidence of record, it is therefore, this 5th day of December, 2016, found, determined, and ordered, as follows:

BACKGROUND

On November 18, 2015, Galen Andrew Scott and Sarah Lowing Scott (“Complainants”), former tenants at 2711 Jennings Road, Kensington, Maryland 20895 (“Property”), a licensed single family rental facility in Montgomery County, Maryland, filed a complaint with the Office of Landlord-Tenant Affairs within the Department of Housing and Community Affairs (“Department”), in which they allege that Benjamin Costa and Kalena Costa (“Respondents”) without a reasonable basis, failed to return their full security deposit (“Deposit”) of \$3,200.00 plus accrued interest in violation of §8-203(e) of the Real Property Article, Annotated Code of Maryland, as amended (“Real Property Article”).

The Complainants assert that the Respondents: (1) had no reasonable basis to withhold any portion of their security deposit plus accrued interest; and (2) failed to remit an itemized list of the amount withheld by first class mail within 45 days of the termination of their tenancy.

The Respondents assert that the Complainants: (1) failed to pay July’s rent; (2) left the property for more than seven (7) days without informing the Respondent; (3) damaged the property in excess of ordinary wear and tear; (4) abandoned the Property; and (5) left no forwarding address.

After determining that the complaint was not susceptible to conciliation, the Department duly referred the matter of *Galen Andrew Scott and Sarah Lowing Scott v. Benjamin Costa and Kalena Costa* relative to Case No. 35592 to the Commission for its review, and on July 5, 2016, the Commission voted to hold a public hearing which commenced on October 11, 2016.

The record reflects that the Complainants and the Respondents were given proper notice of the hearing date and time. On October 10, 2016, the Respondents requested special consideration to attend the public hearing via Skype or teleconference due to the Respondents' residence being in New York as well as Co-Respondent Benjamin Costa's difficulty in taking time off during a critical period at work. This request for teleconference was granted by the Commission absent objection by the Complainants. Present and sworn at the hearing and presenting evidence were: Complainants, Galen Andrew Scott and Sarah Lowing Scott; Respondents, Benjamin Costa and Kalena Costa; and Office of Landlord-Tenant Affairs Investigator, Leslee Clerkley.

Without objection, the Commission entered into the record of the hearing the case file compiled by the Department, identified as Commission's Exhibit No. 1 (85 pages). The Commission also entered into evidence, without objection, Respondent's Exhibit No. 1 – a check, No. 536, of \$3,366.13 from the Respondents' account made payable to Co-complainant Galen Scott received by Investigator Clerkley on October 11, 2016.

The Complainants, with no objection from the Respondents, entered a motion for a voluntary dismissal on the grounds that they would accept the check from the Respondents of \$3,366.13 as full relief with one condition. The Complainants also requested that the record remain open for ten (10) days to allow them to verify that the Respondents' bank account contained sufficient funds to cover the check. The Commission granted the motion. After receiving verification that the check had cleared, the hearing record was closed on October 21, 2016.

ORDER

In view of the foregoing, it is the ruling of the Commission on this 5th day of December, 2016, that, based on the Complainants having received relief from the Respondents in the amount of \$3,366.13, Case No. 35592 is hereby DISMISSED with prejudice.

The foregoing decision was unanimously concurred upon by Commissioner Aluanda Drain, Commissioner Laura Murray and Commissioner Dillon Clark, Panel Chairperson.



Dillon Clark, Panel Chairperson
Commission on Landlord-Tenant Affairs