

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

In the Matter of Teresa Thorne Complainant	
v.	<i>Case No. 9518</i>
Ulysses Glee Silver Spring, MD 20901 (License #017961)Rental Facility: 8716 Bradford Road, #5, S 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"), having considered the testimony and evidence of record, it is, therefore, this 6th day of July, 1999, found, determined and ordered as follows:

BACKGROUND

On December 11, 1998, Teresa Thorne (the Complainant), former tenant at 8716 Bradford Road, #5, Silver Spring, MD (the "Property") a licensed multi-family rental facility in Montgomery County, MD, filed a formal complaint with the Department of Housing and Community Affairs (the "Department"), in which she alleged that Ulysses Glee, owner of the Property (the "Respondent"): (1) failed to issue her an itemized list of damages together with a statement of the cost incurred to repair any damages within thirty (30) days after the termination of her tenancy, in violation of Section 8-203(h)(1) and (2) of the Real Property Article, Annotated Code of Maryland, 1996, as amended ("State Code"); and, (2)

failed to return her security deposit plus accrued interest within forty-five (45) days after the termination of her tenancy, in violation of Section 8-203(f)(1) of the State Code.

The Complainant is seeking the return of her entire security deposit plus accrued interest. At the hearing, the Complainant requested that she be awarded three-fold the amount of the security deposit plus accrued interest as a penalty for the Respondent's unreasonable withholding of the security deposit, pursuant to § 8-203(f)(4) of the State Code.

In response to the above-referenced allegations, the Respondent contends that: (1) the Complainant failed to give proper notice to vacate the Property and therefore, she has forfeited her rights to claim any portion of her security deposit; (2) the Complainant left the Property in terrible condition when she vacated; and (3) He sent the Complainant a letter, dated October 15, 1998, informing her of the disposition of her security deposit.

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 2, 1999, the Commission accepted jurisdiction of the case and scheduled a public hearing for April 26, 1999. At the request of the Respondent the hearing was rescheduled due to matters of employment. The public hearing commenced on May 17, 1999, and ended on that date.

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 was the Complainant, Ms. Teresa Thorne. The record reflects that the Respondent, Ulysses Glee, was not in attendance.

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 14, 1997, the Complainant entered into a twelve (12) month lease agreement with the Respondent for the rental of the Property, which commenced September 15, 1997, and expired September 1, 1998. At the time the lease was executed, the Complainant paid the Respondent a security deposit of \$595.00;
2. The lease agreement was a Housing and Urban Development (HUD) form lease for use in the District of Columbia, and the Complainant is not a HUD tenant, and she never received benefits from HUD or any other government agency during her tenancy;
3. On September 8, 1998, the Complainant issued the Respondent a thirty (30) day notice to quit and vacate the Property by October 10, 1998, in accordance with paragraph 23 of the lease agreement which states: "To terminate this Agreement, Resident must give Management 30 days written notice before moving from the Apartment." In the Complainant's September 8, 1998 notice to vacate, she requested a final walk-through inspection of the Property for October 11, 1998, however, the Respondent never responded to the request and did not appear for a final inspection;

4. The Complainant vacated the Property on October 10, 1998, having paid her September 1998 rent. The Complainant did not pay *pro rata* rent for the period of October 1 through October 10, 1998, which sum is \$191.94 (\$595.00 rent ÷ 31 days = daily rate x 10 days).
5. By correspondence dated October 14, November 9, and November 16, 1998, the Complainant requested that the Respondent return her security deposit plus accrued interest less the unpaid *pro rata* rent for the period of October 1 through October 10, 1998, however, the Respondent never responded;
6. The Respondent failed to pay the Complainant interest which had accrued on her security deposit, which sum is (\$29.75); and,
7. To date, the Complainant has never received any correspondence from the Respondent regarding the disposition of her security deposit.

CONCLUSIONS OF LAW

1. The Complainant issued proper written notice to the Respondent for her intention to terminate her tenancy as of October 10, 1998, in accordance with the terms and conditions in the lease, and therefore, her tenancy terminated on that date. The Complainant is responsible for *pro rata* rent for the period of October 1 through October 10, 1998.
2. The Respondent's failure to present to the Complainant by first-class mail directed to her last known address, within 30 days after the termination of her tenancy, a written list of the damages claimed against her security deposit together with a statement of the cost actually incurred, constitutes a violation of § 8-203(h)(1) of the State Code, and has caused a defective tenancy;
3. The Respondent's failure to return the Complainant's security deposit plus accrued interest, less any damages rightfully withheld, within forty-five (45) days after the termination of her tenancy, constitutes a violation of § 8-203(f)(1) of the State Code, and has caused a defective tenancy; and,
4. The Respondent had no reasonable basis to withhold any portion of the Complainant's security deposit, other than *pro rata* rent for the period October 1 to 10, 1998.
5. Regarding the Complainant's claim at the public hearing that, pursuant to § 8-203(f)(4) of the State Code, the Respondent without a reasonable basis failed to return any part of her security deposit, plus accrued interest within 45 days after the termination of her tenancy, and her request to be awarded threefold the withheld amount of her security deposit as a penalty, the Commission concludes that the claim was not part of the original complaint filed with the Commission and therefore, no notice of the amended claim was served on the Respondent prior to the public hearing. As a result, the Complainant's request to verbally amend her complaint and claim treble damages is hereby DENIED.

ORDER

In view of the foregoing, the Commission on Landlord-Tenant Affairs hereby orders the Respondent to pay the Complainant \$432.81, which sum represents a refund of the Complainant's security deposit, (\$595.00) plus 5% simple interest (\$29.75), less *pro rata* rent for the period of October 1 through October 10, 1998 (\$191.94).

The foregoing was concurred by a majority vote of the Commissioners present for the hearing, being Cynthia Morgan, Gary Everngam, and John Peterson, Chair. Commissioner Everngam abstained from the decision-making process.

To comply with this Order, Respondent, Ulysses Glee, must forward to the Office of Landlord-Tenant Affairs, 100 Maryland Avenue, 4th Floor, Rockville, MD 20850, within fifteen (15) calendar days of the date of this Decision and Order, a check payable to Teresa Thorne, in the full amount of \$432.81.

You are 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 you comply with this Order.

In addition to the issuance of a \$500.00 civil fine Class A violation, should the Commission determine that Respondent has not, within fifteen (15) 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 the action of the Commission may file an administrative appeal to the Circuit Court of Montgomery County, Maryland, within (30) days from the date of this Order, pursuant to the Maryland Rules governing administrative appeals.

**Cynthia Morgan, Commissioner
Commission on Landlord-Tenant Affairs**