

STATE OF MAINE
ANDROSCOGGIN, ss.

SUPERIOR COURT
Docket No.: AP-10-14
MGK - AND - 6/8/2011

MOHMOUD DUALE,

RECD AUBSC 06/08/11

Plaintiff

ORDER

v.

MAPLE STREET HOUSING ASSOC., LP,

Defendant.

Parties, by counsel, appeared before the court today, June 8, 2011, for oral argument on an appeal filed from the District Court's August 6, 2010 Order granting judgment in favor of Defendant.

The Petitioner appeals the District Court's judgment that:

The 14 M.R.S. § 6031(1) definition of "normal wear and tear" does not preclude reasonable conditions for surrender of the property from being incorporated in a lease. The conditions here were reasonable and not contrary to public policy. Payment is governed by the lease, which defendant did not breach.


The court finds that the District Court judgment violates 14 M.R.S.A. § 6033(1) and its mandate: "A security deposit or any portion of a security deposit shall not be retained for the purpose of paying for normal wear and tear."¹

Accordingly, this matter is remanded to the District Court for further proceedings in accordance with this Order.

Pursuant to M.R. Civ. P. 79(a), the Clerk is hereby directed to incorporate this Order by reference in the docket.

Dated:

6/8/11


Justice Mary Gay Kennedy
Superior Court

¹ Whether or not Defendant has a breach of contract action is not before the court.

Date Filed 08-27-10 Androscoggin County Docket No. AP-10-14

Action 76G

MOHMOUD DUALE

MAPLE STREET HOUSING
P.O. Box 278
South Paris, ME 04281

vs.

Plaintiff's Attorney

Matthew Dyer, Esq.
PINETREE LEGAL
P.O. Box 398
Lewiston, ME 04243

Defendant's Attorney

DAVID VAN BAARS, ESQ.
677 ROOSEVELT TRAIL
WINDHAM, ME 04062

Date of
Entry

2010
Aug 27

Received 08-27-10:
Notice of Appeal Small Claims filed.
Notice is hereby given that the Plaintiff appeals to the Superior Court from
Judgment entered in this action on August 6, 2010.

September 15

Rec'd on 9/14/10
Entry of Appearance of David Van Baars, Esq. on behalf of the defendant.

Dec 13

On 12-13-10:
Copy of transcript order form mailed to Office of Transcript Production.

Dec 15

Received 12-15-10:
Copy of letter from Office of Transcript Production to Matthew Dyer, Esq.
regarding cost of transcript filed.

Feb 22

Rec'd on 2/18/11
Original Transcript rec'd from Office of Transcript Production.
Notice and Briefing Schedule sent to parties. Appellant's Brief is due
on or before April 4, 2011.

March 31

Rec'd 3/31/11
Appellant's Brief filed.

Apr 29

Received 04-29-11:
Appellee's Brief filed.

May 5

Rec'd on 5/5/11
Appellant's Reply Brief received and filed.

May 11

On 05-11-11:
Case set for hearing on June 8, 2011 at 1:00 p.m.
Notice sent to parties on 5-11-11.