

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
AP-14-77

PATRICK CURRIE,

Plaintiff/Appellee

v.

**ORDER ON APPEAL FROM THE
DISTRICT COURT**

ROBERT HAWKINS, Jr.

Defendant/Appellant

Robert Hawkins, Jr. appeals to the Superior Court from a Small Claims Judgment entered by the Waterville District Court on November 7, 2014. Mr. Hawkins is represented in this appeal by Attorney Mariah A. Gleaton. Patrick Currie did not file a brief in this matter, nor did he appear at oral argument on August 19, 2015. Both parties were unrepresented at the Small Claims hearing.

The District Court awarded Judgment in the amount of \$2,000 to Mr. Currie for Mr. Hawkins' failure to return a security deposit in the amount of \$1,000.00. The Court doubled the amount of the deposit retained pursuant to 14 MRSA 6034.

After considering the record on appeal, and the written and oral argument made by counsel for the Appellant, the Court grants the appeal in part and denies it in part.

The Court agrees with counsel that the District Court erred when it found that it was compelled to award double damages pursuant to the statute. 14 MRSA 6034(2) creates a presumption that a landlord who fails to return a security deposit within certain time frames does so "willfully", entitling the tenant to double damages of the amount of the security deposit wrongly withheld. However, that presumption can be overcome when a landlord has a good faith belief of legal entitlement. *Karantza v. Salamone*, 435 A.2d 1334, 1336 (Me. 1981).

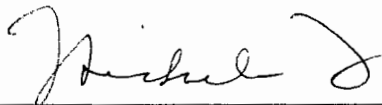
While the District Court's factual findings were not clearly erroneous as to what occurred, its legal conclusion that it had to award double damages was in error. The record is clear that Mr. Hawkins was told by Mr. Currie on two occasions that he could keep the \$1,000 deposit prior to demanding in writing that it be returned, and Mr. Currie did not deny making the statements. The District Court found that when Mr. Currie twice told Mr. Hawkins that he could keep the deposit that the statements were made "in frustration and anger" (Trial Transcript pg. 12) but that it was compelled by "the function of the statute itself" to award double damages. *Id.* pg. 16.

In sum, the District Court properly found that Mr. Currie did not legally withhold Mr. Hawkins' \$1,000 security deposit, but erred when it found that it was compelled to award double damages despite the statements made by Mr. Currie which were sufficient to overcome the presumption that the withholding of the deposit was wilfull.

The entry will be: The Notice of Judgment of the District Court is VACATED. Judgment is entered for Plaintiff/Appellee Patrick Currie in the amount of \$1,000.00 with costs awarded in the amount of \$61.54.

8/26/15

DATE



SUPERIOR COURT JUSTICE

County

Action: Small Claims

J. Murphy

Patrick Currie

vs.

Robert Hawkins, Jr.

Plaintiff's Attorney

Defendant's Attorney

Patrick Currie, Pro Se
~~692 Fairfield Street~~ PO Box 612
Oakland, ME 04963

Mariah Gleaton, Esq.
PO Box 417
Waterville, ME 04903-0417

Date of Entry

- 12/23/14 Entire file received from Waterville D.C. (SC-14-364) on 12/12/14.
- 12/23/14 Notice to Parties, Small Claims Appeal, sent to Plaintiff and Atty Gleaton.
- 1/21/15 Transcript of 11/7/14 Final Hearing, filed 1/16/15.
- 1/21/15 Notice and Briefing Schedule issued.
Copy to Plaintiff and Atty Gleaton
- 2/21/15 Notice of Change of Address, filed 2/20/15. s/Currie, Pro Se
- 3/10/15 Brief For Appellant, Transcript of 11/7/14 Final Hearing, filed 3/2/15. s/Gleaton, Esq.
- 7/2/15 Oral Argument scheduled for 8/19/15 at 9:00.
Notice of Hearing sent to Petitioner and Atty Gleaton
- 8/19/15 Hearing held, J. Murphy presiding.
Petitioner did not appear. Mariah Gleaton, Esq. for Respondent.
Courtroom 4, 9:10:39 to 9:19:10
Under advisement
- 8/27/15 ORDER ON APPEAL FROM THE DISTRICT COURT, Murphy, J. (8/26/15)
The Notice of Judgment of the District Court is VACATED. Judgment is entered for the Plaintiff/Appellee Patrick Currie in the amount of \$1,000.00 with costs awarded in the amount of \$61.54.
Copy to Petitioner and Atty Gleaton
Copy to Repositories