

19 Fla. L. Weekly Supp. 666a

Online Reference: FLWSUPP 1908LAST

Landlord-tenant -- Refund of security deposit -- Where tenant who held month-to-month tenancy failed to give landlord written notice at least seven days prior to vacating premises, landlord was not required to send notice of intent to impose claim on security deposit -- Tenant in month-to-month tenancy who failed to give notice fifteen days prior to vacating premises is liable to landlord for one month's rent

TAKEISHA LASTER, Plaintiff, vs. ASTLEY RHODEN, Defendant. County Court, 17th Judicial Circuit in and for Broward County. Case No. 12-2767 COCE (55). May 2, 2012. Sharon Zeller, Judge.

FINAL JUDGMENT

THIS CAUSE having come before the court for Nonjury Trial and the Court having heard argument of same, and being fully advised in the premises, the court finds as follows:

FINDINGS OF FACT

Takeisha Laster, (hereinafter referred to as Tenant), entered into a written lease with Astley Rhoden, (hereinafter referred to as Landlord), covering the term of December 1, 2010 through November 30, 2011. The Tenant paid the Landlord an \$800.00 security deposit. The lease specifically stated that the Tenant must paint all walls white prior to vacating the apartment.

The Tenant remained on the property with the permission of the Landlord in December. Tenant wanted a larger apartment as her mother moved in with her. No such apartment was available. The Tenant testified that she texted the Landlord several times in December that she would have to move if a larger apartment was not available, however, nothing was put in writing (nor entered into evidence) until January 2, 2012. At that time, the Tenant notified the Landlord that she would be moving out on or before January 6, 2012, and provided a new address.

The Landlord sent a late notice demanding January's rent by certified mail to Tenant's old address which she never received. On January 19, 2012, the Landlord sent a "Notice of Intention to Impose Claim on Security Deposit" due to unpaid rent for January and cost of repairs in the amount of \$800.00. The Landlord advised the Tenant that she had to object in writing to the claim within 15 days. He mailed it to her old address.

On February 2, 2012, the Tenant replied and object to the Landlord's claim, stating that she advised the Landlord of her intent to move in December and all of Landlord's claims for repair were nothing more than normal wear and tear.

CONCLUSIONS OF LAW

Florida Statutes govern the relationships between Landlords and Tenants and is very specific. Section 83.49(3)(a) F.S. states that upon vacating the premises the Landlord shall have 30 days to give the Tenant written notice by certified mail to the Tenant's last known mailing address of

his intention to impose a claim on the **deposit** and the reason for imposing the claim. Failure to do so results in a forfeiture of the right to impose a claim.

Section 83.49(5) states that any tenant who vacates the premises which are the subject of a tenancy from month to month shall give at least 7 days written notice by **certified mail** or personal delivery to the landlord prior to vacating the premises. Failure to give such notice shall relieve the landlord of the notice requirement of paragraph (3) (a). The Tenant may still have a claim to the **security deposit**.

Section 83.57 states that a tenancy without a specific duration may be terminated by either party giving written notice: When the tenancy is from month to month, by giving not less than 15 days' notice prior to the end of any monthly period.

Section 83.57(3) states that if the Tenant remains on the premises with the permission of the Landlord after the rental agreement has terminated and fails to give notice required under s. 83.57(3), the Tenant is liable to the Landlord for an additional 1 month's rent.

In this case the Landlord sent the required notice with his claim for a specific dollar amount for unpaid rent. Although the letter was not sent by **certified mail** the Tenant received and replied to it. The Landlord did not have to send this letter as the Tenant failed to give 7 days written notice prior to vacating the premises. Furthermore, since the Tenant's lease expired and she was living month to month, she needed to terminate the lease by giving written notice 15 days prior to the end of any monthly period. Since she did not, the Tenant is liable to the Landlord for one month's rent. Therefore, it is hereby

ORDERED AND ADJUDGED that Plaintiff, TAKEISHA LASTER, takes nothing by this action and the Defendant, ASTLEY RHODEN, shall go hence without day.

* * *