

FILED
AUG 10 2017
Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

THOMAS SILVER, an individual, and all
those similarly situated,

Plaintiff,

vs.

RUDEEN MANAGEMENT COMPANY,
INC., a Washington corporation,

Defendant.

Case No.

17203103-2

COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff, by and through his attorneys of record and for causes of
action against the above-named Defendant, complains and alleges as follows:

I. INTRODUCTION

1.1 This is an action to recover tenants' deposit trust monies, pursuant to RCW
59.18.280, based upon their landlords' and their landlords' agents' systematic and wrongful
withholding of their deposit trust monies after the termination of tenancies.

1.2 Plaintiff Thomas Silver brings this action against defendant Rudeen Management Company, Inc. (hereinafter “Rudeen Management”), on his own behalf and on behalf of similarly situated persons, to recover damages, costs, attorneys’ fees, and any other relief the court deems just and proper for the Defendant’s violations of Washington’s Residential Landlord Tenant Act (hereinafter “RLTA”), RCW 59.18, *et seq.*

II. IDENTITY OF PARTIES

2.1 Plaintiff Thomas Silver, at all times relevant to this action, was a resident of Spokane County, Washington, who entered into a residential lease as a tenant of Rudeen Management.

2.2 Defendant Rudeen Management, is a Washington corporation that is engaged in the business of rental property management in Spokane County and elsewhere. Rudeen Management served as Mr. Silver’s “landlord,” and is a former landlord of similarly situated persons, as that term is defined by RCW 59.18.030(11).

III. STATEMENT OF JURISDICTION AND VENUE

3.1 This Court has jurisdiction over the parties to this action pursuant to RCW 4.28.080, RCW 4.28.185, RCW 59.18.050, and RCW 59.18.060(15).

3.2 Venue is proper in this Court pursuant to RCW 4.12.020.

IV. FACTUAL BACKGROUND

4.1 The Plaintiff incorporates and realleges the allegations contained in Paragraphs 1.1 through 3.2 above.

4.2 On or about March 26, 2012, Mr. Silver entered into a residential lease agreement with Rudeen Management for the premises commonly known as “Pheasant Ridge Apartments” and located at 601 South Woodruff Road in Spokane Valley, Washington.

4.3 The parties' lease provided for a six-month term ending on September 30, 2012, with the tenancy continuing on a month-to-month basis thereafter.

1 4.4 The parties' lease agreement provided that, in addition to monthly rent of
2 \$810.00, Mr. Silver paid a "Damage/Cleaning/Security Deposit" of \$300.00, plus a
3 nonrefundable fee of \$100.00 for carpet cleaning and drip pan replacement, at the
4 commencement of the tenancy.

5 4.5 Rudeen Management's standardized lease specified that "Within fourteen days of
6 the termination of the contract and vacating the premises, Landlord shall send an itemized
7 accounting to Tenancy stating the basis for retaining any part of the deposit, together with
8 payment of any refund."

9 4.6 Rudeen Management's standardized lease also specified that "Tenant shall forfeit
10 unclaimed [deposit] funds after 45 days."

11 4.7 An addendum to the lease, titled "Replacement Costs Charged to Tenant," stated
12 that "Carpet will be billed based on estimate," and that "Life expectancy of carpet is 7 years."

13 4.8 Mr. Silver paid the \$300.00 security deposit required by his lease to the
14 Defendant.

15 4.9 After residing at the Pheasant Road premises for several years, Mr. Silver
16 provided proper notice of his intent to terminate his month-to-month tenancy on June 30, 2015.

17 4.10 Mr. Silver vacated the premises on or before June 30, 2015.

18 4.11 The same date as the termination of the tenancy, Rudeen Management sent Mr.
19 Silver a statement titled "Deposit Disposition" and marked "preliminary," which claimed
20 \$3,000.00 due for allegedly excessive wear and tear to the premises.

21 4.12 Mr. Silver was not responsible for the allegedly excessive wear and tear to the
22 premises.

23 4.13 More than six weeks later on or about August 18, 2015, Rudeen Management sent
24 Mr. Silver another statement titled "Deposit Disposition" and marked "final," which claimed a
25 revised amount due of \$2,765.35 for allegedly excessive wear and tear to the premises.

1 4.14 Included with Rudeen Management's August 18, 2015, statement was an invoice
2 from "Sydney's Sparkle Cleaning," with the invoice amount redacted, dated August 10, 2015.

3 4.15 Also included with Rudeen Management's August 18, 2015, statement was a
4 \$3,315.35 invoice from "Renewing Flooring Services, LLC," dated August 4, 2015.

5 4.16 At the time Rudeen Management sent its "preliminary" deposit disposition
6 statement, none of the work to be invoiced had been completed.

7 4.17 After application of Mr. Silver's deposit and credits, Rudeen Management's June
8 30, 2015, "preliminary" deposit disposition statement calculated a balance of \$2,516.00 due from
9 Mr. Silver.

10 4.18 After application of Mr. Silver's deposit and credits, Rudeen Management's June
11 August 18, 2015, "final" deposit disposition statement calculated a balance of \$2,281.35 due
12 from Mr. Silver.

13 4.19 When Mr. Silver questioned the basis and amounts alleged due, Rudeen
14 Management referred its claim to a third-party collection agency.

15 4.20 Rudeen Management did not provide Mr. Silver with a full and complete
16 statement regarding the bases for withholding his deposit monies until after August 18, 2015,
17 more than six (6) weeks after the termination of his tenancy.

18 4.21 Rudeen Management, acting on its own behalf and as the designated
19 representative and agent of its client Property Owners, violated Washington's Residential
20 Landlord Tenant Act (RLTA), RCW 59.18.280, by failing to provide a full and specific
21 statement of the basis for retaining Mr. Silver's deposit trust monies, along with any refund due
22 from his trust account, within 14 days of the termination of his tenancy.

23 4.22 Rudeen Management intentionally refused to provide a full and specific statement
24 of the basis for retaining Mr. Silver's deposit monies, along with any refund due from his trust
25 account, within 14 days of the termination of his tenancy.

4.23 Rudeen Management cannot account for active and passive delays sufficient to show that it made a conscientious attempt to provide a full and specific statement of the basis for retaining Mr. Silver's deposit trust monies, along with any refund due from his trust account, within 14 days of the termination of his tenancy.

V. CLASS ALLEGATIONS

5.1 This action is brought on behalf of a class consisting of:

5.1.1 All persons who rented properties owned or managed by the Defendant in the state of Washington;

5.1.2 Who paid a damage and/or security deposit at, or any time after, the commencement of their tenancy;

5.1.3 Who, within the three (3) years prior to the filing of this lawsuit, vacated or abandoned the property;

5.1.4 Where, at the time of move-out or abandonment, the Defendant were in possession of the tenants' security deposit;

5.1.5 Where, fifteen (15) or more days following termination of the rental agreement and vacation of the premises or, if the tenant abandoned the premises, fifteen (15) or more days after the Defendant learned of the abandonment, the Defendant withheld all, or any portion, of the deposit; and

5.1.6 Where, within fourteen (14) days following termination of the rental agreement and vacation of the premises or, if the tenant abandoned the premises, within fourteen (14) days after the Defendant learned of the abandonment, the Defendant did not send to the former tenant a full and specific statement of the basis for retaining the deposit, or a portion thereof, from the former tenant; or

5.1.7 In circumstances arising after the term specified in RCW 59.18.280 was amended from fourteen (14) days to twenty-one (21) days, then where, within twenty-two (22)

1 days following termination of the rental agreement and vacation of the premises or, if the tenant
2 abandoned the premises, twenty-two (22) or more days after the Defendant learned of the
3 abandonment, the Defendant withheld all, or any portion, of the deposit; and

4 5.1.8 Where, within twenty-one (21) days following termination of the rental
5 agreement and vacation of the premises or, if the tenant abandoned the premises, within twenty-
6 one (21) days after the Defendant learned of the abandonment, the Defendant did not send to the
7 former tenant a full and specific statement of the basis for retaining the deposit, or a portion
8 thereof, from the former tenant.

9 5.2 Plaintiff has the same claims as the members of the class. All of the claims are
10 based on the same factual and legal theories.

11 5.3 Plaintiff will fairly and adequately represent the interests of the class members.
12 He is committed to vigorously litigating this matter.

13 5.4 Neither the Plaintiff nor his counsel has any interests which might cause them not
14 to vigorously pursue this claim.

15 5.5 A class action is a superior method for the fair and efficient adjudication of this
16 controversy.

17 5.6 Class-wide damages are essential to induce the Defendant to comply with the law.

18 5.7 The interest of the class members in individually controlling the presentation of
19 separate claims against the Defendant is small, because the amount of damages suffered by each
20 individual class member is relatively small.

21 5.8 Certification of a class pursuant to Rule 23(b)(3) of the Superior Court Civil
22 Rules is appropriate. A class action is the only appropriate means of resolving this controversy
23 because the class members are not aware of their rights, the class is comprised of a largely
24 vulnerable population, and the amount of available damages for many of the class members may
25 be relatively small. In the absence of a class action, a failure of justice will result.

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VI. CAUSE OF ACTION

6.1 Violation of the Washington Residential Landlord-Tenant Act

6.1.1 RCW 59.18.280 specifies that “[w]ithin twenty-one days after the termination of the rental agreement and vacation of the premises or...within twenty-one days after the landlord learns of the abandonment, the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement.”

6.1.2 Prior to 2016 statutory amendments, and within the timeframes contemplated in this action, RCW 59.18.280 specified that “[w]ithin fourteen days after the termination of the rental agreement and vacation of the premises or...within fourteen days after the landlord learns of the abandonment, the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement.”

6.1.3 An estimate is not a full and specific statement.

6.1.4 An undisclosed charge is not a full and specific statement.

6.1.5 An anticipated charge is not a full and specific statement.

6.1.6 The Defendant cannot avail itself of RCW 59.18.280’s exception or show that circumstances beyond their control prevented their compliance with the statute.

6.1.7 The Defendant did not, within fourteen (14) days after the termination of the rental agreement with the Plaintiff, provide a full specific statement or return any portion of deposit to the Plaintiff.

6.1.8 The Defendant did not, within twenty-one (21) days after the termination of the rental agreement with the Plaintiff, provide a full specific statement or return any portion of deposit to the Plaintiff.

6.1.9 Pursuant to RCW 59.18.030(11), Rudeen Management is a “landlord” subject to the provisions of RCW 59.18, *et seq.*, including RCW 59.18.280.

6.1.10 The Defendant is therefore liable to the Plaintiff and to the affected class members for damages as set forth in RCW 59.18.280.

VII. RELIEF REQUESTED

WHEREFORE, the Plaintiff prays for relief as follows:

7.1 An order certifying class members' claims pursuant to CR 23(b)(3), appointing named Plaintiff as representative of the proposed class, or such other class as the Court may deem appropriate, and appointing undersigned counsel as class counsel;

7.2 For refund of each class members' security deposit paid to or retained by Defendant;

7.3 Declaratory relief holding that Defendant's actions were willful;

7.4 Two times the amount of the deposit illegally retained by Defendant, for each member of the class;

7.5 Reasonable attorney's fees and costs pursuant to RCW 59.18.280 and RCW4.84.330;

7.6 Any such other and further relief as the Court deems just and equitable.

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2 DATED this 9th day of August, 2017.

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4 KIRK MILLER, PS

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VERIFICATION

I, THOMAS SILVER, declare under penalty of perjury under the laws of the State of Washington that I am the Plaintiff herein; I have read the foregoing Complaint for Damages; I know the contents thereof; and I believe the same to be true and correct.

Signed this 31 day of July, 2017,
at Spokane, Washington.



THOMAS SILVER
Plaintiff