

FILED
SUPREME COURT
STATE OF WASHINGTON
11/28/2023 4:43 PM
BY ERIN L. LENNON
CLERK

102404-5

Court of Appeals No. 83734-6-I

SUPREME COURT OF THE STATE OF WASHINGTON

VIRGINIA CHIU and VINCENT LIEW,

Petitioners

vs.

BRIAN HOSKINS,

Respondent

On Appeal from the Superior Court of King County

COA No. 83734-6-I

The Honorable Mafe Rajul, Judge

AMICUS CURIAE MEMORANDUM OF THE TENANT LAW
CENTER IN SUPPORT OF THE PETITION FOR REVIEW

Elizabeth Powell, WSBA No. 30152

Tenant Law Center

100 – 23rd Ave S.

Seattle WA 98144

(206) 999-6175

EPowell@ccsww.org

TABLE OF AUTHORITIES

CASES

<i>Chiu v. Hoskins</i> , 534 P.3d 412, 421 (Wash. Ct. App. 2023)	5
<i>Williams v Tilaye</i> , 174 Wash. 2d 61, 272 P. 3d 235(2012)	6, 7
<i>State v. J.P.</i> , 149 Wash.2d 444, 450, 69 P.3d 318 (2003).	6
<i>Dep't of Ecology v. Campbell & Gwinn, LLC</i> , 146 Wash.2d 1, 11–12, 43 P.3d 4.	6
<i>Silver v. Rudeen Mgmt. Co., Inc.</i> , 197 Wn.2d 535, 548–49, 484 P.3d 1251, 1257–58 (2021)	6
<i>Pac. Nw. Shooting Park Ass'n v. City of Sequim</i> , 158 Wash.2d 342, 354, 144 P.3d 276 (2006).	7
<i>Am. Cont'l Ins. Co. v. Steen</i> , 151 Wash.2d 512, 518, 91 P.3d 864 (2004)	7
<i>Wolf v. State</i> , 534 P.3d 822, 829 (Wash. 2023)	6, 7
<i>HomeStreet, Inc. v. Dep't of Revenue</i> , 166 Wash.2d 444, 451, 210 P.3d 297 (2009)	7
<i>State v. Valdiglesias LaValle</i> , 535 P.3d 856, 861 (Wash. 2023) . . .	7
<i>In re Marriage of Schneider</i> , 173 Wash.2d 353, 363, 268 P.3d 215 (2011)	7
<i>Dep't of Ecology v. Campbell & Gwinn, LLC</i> , 146 Wash.2d 1, 11, 43 P.3d 4 (2002)	7
<i>State v. Schwab</i> , 103 Wn.2d 542, 551, 693 P.2d 108, 113 (1985). . .	8

Christensen v. Ellsworth,
162 Wn.2d 365, 372–73, 173 P.3d 228, 232 (2007) 8

Hous. Auth. of City of Everett v. Terry,
114 Wn.2d 558, 563, 789 P.2d 745, 748 (1990) 9

Schilling v. Radio Holdings, Inc.,
136 Wash.2d 152, 157-59, 961 P.2d 371 (1998) 9

Silver v. Rudeen Mgmt. Co., Inc.,
197 Wn.2d 535, 548–49, 484 P.3d 1251, 1257–58 (2021).10

OTHER AUTHORITIES

Thomas Bothwell, Comment, *Washington Tenant Remedies and the Consumer Protection Act*, 10 GONZ. L. REV. 559, 559 (1975). . . . 9

STATUTES

RCW 59.18.280 5,6,8, 9, 10
RCW 59.18.055 7

RULES

RAP 13.4(h)
RAP 10.3(e)
RAP 10.6

TABLE OF CONTENTS

I.	IDENTITY AND INTEREST OF <i>AMICI CURIAE</i>	1
II.	SUMMARY OF ARGUMENT	1
III.	ARGUMENT	1
IV.	CONCLUSION	9
V.	APPENDICES	

I. IDENTITY AND INTEREST OF *AMICI CURAE*

The identity of the *amicus curae* is the Tenant Law Center, which provides advocacy and eviction prevention services to tenants. This work includes assisting tenants with ensuring their rights are upheld.

II. ISSUE TO BE ADDRESSED

Under RCW 59.18.280, may a landlord use email to return a tenant's deposit, and/or provide notification of the disposition of the tenant's deposit when the plain language of the statute allows notification only by hand-delivery, or first-class mail?

III. ARGUMENT

After hearing argument and reviewing the pleadings on file in this matter, The Court of Appeals determined that RCW 59.18.280(1)(b) provides two ways to “give” the required security deposit statement that are sufficient to establish compliance with RCW 59.18.280(1) but does not exclude or prohibit other, equally effective, ways to give the statement, including e-mail. *Chiu v. Hoskins*, 534 P.3d 412, 421 (Wash. Ct. App. 2023). However, this question—which is a question of law—was incorrectly assessed, resulting in an erroneous ruling. The statute at issue, RCW 59.18.280, is plain on its face and only permits two methods by which a landlord can provide a tenant with

notice of the disposition of their deposit and return funds. It was error for the Court of Appeals to add email to hand-delivery and first-class mail as means to notify a tenant regarding their money. Accordingly, we ask the Court to reverse the Court of Appeals.

This Court can review the Court of Appeals decision regarding whether or not a deposit disposition can be emailed *de novo* because the meaning of a statute is a question of law. “Statutory interpretation is a question of law reviewed *de novo*.” *Williams v. Tilaye*, 174 Wash.2d 57, 61, 272 P.3d 235 (2012). Here, the Court interpreted the law to determine whether RCW 59.18.280 included the ability to provide the disposition of a deposit to a tenant via email. As such, the principles of statutory construction apply.

Interpreting statutes requires the court to discern and implement the legislature's intent. *State v. J.P.*, 149 Wash.2d 444, 450, 69 P.3d 318 (2003). To determine the intent of the legislature in adopting legislation, we read a statutory provision in context with the whole statutory scheme and related statutes. *See Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wash.2d 1, 11–12, 43 P.3d 4. Further,

When statutory language is plain on its face, we derive legislative intent from the statute's plain language and ordinary meaning. *Spokane*, 158 Wash.2d at 673, 146 P.3d 893; *Cent. Puget Sound Reg'l Transit Auth. v. WR-*

SRI 120th N. LLC, 191 Wash.2d 223, 233-34, 422 P.3d 891 (2018), *Williams v. Tilaye*, 174 Wn.2d 57, 63, 272 P.3d 235, 238 (2012).

Additionally, the Court’s “inquiry ends where the language of the statute is plain and unambiguous.” *HomeStreet, Inc. v. Dep't of Revenue*, 166 Wash.2d 444, 451, 210 P.3d 297 (2009), *Williams v. Tilaye*, 174 Wn.2d 57, 63, 272 P.3d 235, 238 (2012).

“A statute is ambiguous only if it can be reasonably interpreted in more than one way, not merely because other possible interpretations exist.” *Pac. Nw. Shooting Park Ass'n v. City of Sequim*, 158 Wash.2d 342, 354, 144 P.3d 276 (2006) (citing *Am. Cont'l Ins. Co. v. Steen*, 151 Wash.2d 512, 518, 91 P.3d 864 (2004) (plurality opinion)), *State v. Valdiglesias LaValle*, 535 P.3d 856, 861 (Wash. 2023). “In the absence of ambiguity, we will give effect to the plain meaning of the statutory language.” *In re Marriage of Schneider*, 173 Wash.2d 353, 363, 268 P.3d 215 (2011) (citations omitted). Importantly, “plain meaning “is discerned from all that the Legislature has said in the statute and related statutes which disclose legislative intent about the provision in question.” *Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wash.2d 1, 11, 43 P.3d 4 (2002), *Wolf v. State*, 534 P.3d 822, 829 (Wash. 2023). Further, “it is hard to perceive of a more thoroughly

considered piece of legislation than the Residential Landlord-Tenant Act of 1973.” *State v. Schwab*, 103 Wn.2d 542, 551, 693 P.2d 108, 113 (1985)

Here, RCW 59.18.280 specifies two ways for a landlord to send notice to an ex-tenant regarding that tenant’s deposit disposition: 1) by hand-delivery or 2) by depositing it in the mail, with postage pre-paid, and addressed to the tenant’s last-known address. The plain language of RCW 59.18.280 provides only two methods of notifying a tenant of the disposition of their deposit. No part of RCW 59.18.280 suggests that emailing a deposit disposition complies with this directive.

A court's objective in construing a statute is to determine the legislature's intent. . . . If the statutory language is susceptible to more than one reasonable interpretation, then a court may resort to statutory construction, legislative history, and relevant case law for assistance in discerning legislative intent. *Cockle v. Dep't of Labor & Indus.*, 142 Wash.2d 801, 808, 16 P.3d 583 (2001).

Christensen v. Ellsworth, 162 Wn.2d 365, 372–73, 173 P.3d 228, 232 (2007)

Further, elsewhere in the Residential Landlord-Tenant Act (hereinafter “RLTA”), landlords cannot email predicate notices or serve process by email. See RCW 59.18.055. If the legislature intended landlords to have the ability to serve documents via email,

they could have easily stated as much in the statute. Instead, they explicitly list the two options available and provide no other alternatives.

It is important to note that the Court has previously determined that the RLTA is a “statute[] in derogation of the common law and thus [is] strictly construed in favor of the tenant.” *Hous. Auth. of City of Everett v. Terry*, 114 Wn.2d 558, 563, 789 P.2d 745, 748 (1990). This is because the RLTA creates remedies for tenants “to protect several tenant interests susceptible to the landlord's ‘upper hand,’ which is especially strong in times of housing shortages.” Thomas Bothwell, Comment, *Washington Tenant Remedies and the Consumer Protection Act*, 10 GONZ. L. REV. 559, 559 (1975).

The RLTA also provides for costs and fees for violations of its deposit provisions and double damages for willful violations of the deposit return provision at issue here. RCW 59.18.280(2); *see also Schilling v. Radio Holdings, Inc.*, 136 Wash.2d 152, 157-59, 961 P.2d 371 (1998) (concluding that the wage rebate statute “must be liberally construed to advance the Legislature's intent to protect employee wages and assure payment,” in part, because the legislature provided for exemplary damages and costs and attorney fees), *Silver v. Rudeen*

Mgmt. Co., Inc., 197 Wn.2d 535, 548–49, 484 P.3d 1251, 1257–58 (2021).

RCW 59.18.280 is explicit and there is no ambiguity which could be interpreted to expand the methods by which a landlord can provide the disposition of a deposit and/or funds. The ruling by the Court of Appeals not only disregards the plain language of the statute, but improperly uses jurisprudence to amend the statute and include an additional method by which landlords can return deposits and inform tenants of what amount, if any, of their deposit has been withheld. Had the Legislature intended to include email as a means to return a deposit, the Legislature would have said so. Here, the Court of Appeals is substituting its own judgment for that of the Legislature by adding a new method to the statute for landlords to give deposit dispositions to tenants. Adding email as a means to send a deposit disposition, when the Legislature did not, is not congruent with this Court's jurisprudence.

VI. CONCLUSION

This Court has the opportunity to correct the Court of Appeals' erroneous conclusion that the landlord complies with RCW 59.18.280 by emailing a deposit disposition. The plain language of the law

clearly provides only two methods by which a landlord can return a deposit or inform the tenant of any amounts deducted from their deposit. We urge the Court to ensure the intent of the legislature is upheld by overturning the ruling by the Court of Appeals.

Respectfully submitted this 28th day of November, 2023.

TENANT LAW CENTER

Elizabeth Powell, WSBA No. 30152

In compliance with RAP 18.7, I certify that this document contains 2,134 words. /s/ Elizabeth Powell

ELIZABETH POWELL PS INC

November 28, 2023 - 4:43 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 102,404-5
Appellate Court Case Title: Virginia Chiu and Vincent Liew v. Brian Hoskins

The following documents have been uploaded:

- 1024045_Motion_20231128161735SC704913_0598.pdf
This File Contains:
Motion 2 - Amicus Curiae Brief
The Original File Name was AmicusTLCbrief.pdf
- 1024045_Motion_20231128161735SC704913_2795.pdf
This File Contains:
Motion 1 - Extend Time to File
The Original File Name was Amicusmotion4extensionoftime.pdf
- 1024045_Motion_20231128161735SC704913_5885.pdf
This File Contains:
Motion 3 - Other
The Original File Name was Amicusmotion4leave.pdf

A copy of the uploaded files will be sent to:

- david@davidcorbettlaw.com
- davidcorbettlaw@gmail.com
- erin.liseellnerlaw@gmail.com
- erin@legalwellspring.com
- val@legalwellspring.com

Comments:

Sender Name: Elizabeth Powell - Email: powelllaw@comcast.net

Address:

535 DOCK ST STE 108

TACOMA, WA, 98402-4629

Phone: 253-274-1518

Note: The Filing Id is 20231128161735SC704913