

PATRICK J. AYOTTE JR. et al.

v.

SUSAN T. KEEFER

Submitted on Briefs October 24, 2005

Decided December 13, 2005

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS, and  
SILVER, JJ.

#### MEMORANDUM OF DECISION

Susan T. Keefer appeals from a summary judgment entered in the District Court (Augusta, *Perry, A.R.J.*) on the complaint of Patrick J. Ayotte Jr. and Barbara L. Ayotte, pursuant to 14 M.R.S.A. §§ 6033, 6034 (2003), seeking recovery of their security deposit, plus attorney fees and court costs, in a landlord-tenant dispute. Contrary to Keefer's contention, because she failed to include an opposing statement of material facts, *see* M.R. Civ. P. 56(h)(2), the court correctly considered as admitted the facts asserted in the statement of material facts submitted by the Ayottes, and there was no genuine issue of material fact with respect to her wrongful retention of the Ayottes' security deposit, *see*

M.R. Civ. P. 56(h)(4); *Stanley v. Hancock County Comm'rs*, 2004 ME 157, ¶ 18, 864 A.2d 169, 175; *see also* 14 M.R.S.A. §§ 6033, 6034; *Karantza v. Salamone*, 435 A.2d 1384, 1385-86 (Me. 1981). The court incorrectly assessed damages, however, because a landlord is only “liable for double the amount of *that portion of the security deposit wrongfully withheld* from the tenant, together with reasonable attorney’s fees and court costs.”<sup>1</sup> *See* 14 M.R.S.A. § 6034(2) (emphasis added); *Robbins v. Foley*, 469 A.2d 840, 842 (Me. 1983).

The entry is:

Judgment modified and reduced, to the amount of \$2520.33, and, as modified, judgment affirmed.

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<sup>1</sup> The amount wrongfully withheld from the Ayottes’ \$500 security deposit is \$424.02. Thus, the Ayottes are entitled to double that amount (\$848.04), along with the amount of their security deposit that Keefer offered to return (\$75.98), plus their reasonable attorney fees and court costs (\$1596.31), for total damages of \$2520.33.