Mungall v. Garry:
The Court of Appeals Misconstrues the 21-Day Clock in Minn. Stat. § 504B.178

INTRODUCTION

When a residential tenant moves out at the end of the lease and gives the landlord a delivery address the landlord has a three-week deadline under Minn. Stat. § 504B.178 to return or account for the security deposit. Most practitioners, including tenant advocates[1], have assumed that the three-week clock starts after both of the following two things have happened -- the tenancy has terminated and the landlord has received the delivery address. However, no appellate court had squarely faced the question of what section 504B.178 requires if the tenancy ends some period of time before the tenant gets around to providing her delivery address.

On June 17, in an unpublished case but one of first impression[2], *Mungall v. Garry*, Minn. Ct. App. File No. A18-2020 (Jun. 17, 2019)[3], the court ruled that the landlords missed the deadline when they waited exactly three weeks (21 days) after receiving the tenant's delivery address but 27 days after the termination of her tenancy.

As discussed in this essay, I believe the court was wrong. Its construction of section 504B.178 leads to illogical results when the tenant does not provide her address until more than three weeks post termination of tenancy or until very near the end of the three week period. Its construction also flies in the face of the statute's legislative history.

FACTS AND PROCEDURAL HISTORY

Jill Mungall rented a home from the Garrys starting August 8, 2015. She paid a $1,450 security deposit. Her lease ended on August 31, 2017 and she moved out by that day. On September 6,

---

[1]E.g. see two books published by the tenant advocacy non-profit agency HOME Line, to wit HOME Line, *How to Be the Smartest Renter on Your Block* 116 (2011) (The 21-Day Rule) and HOME Line, Michael Vraa, Samuel Spaid, *The Landlord's Guide to Minnesota Law* 179 (2015) (The 21-Day Rule); and this treatise by a former Legal Aid attorney and current head of Dorsey's pro-bono department, Lawrence McDonough, *Security Deposits in Minnesota* 13 (2015) ("Subdivision 4 requires that the landlord must have received the tenant's mailing address or delivery instructions before the three week period commences."), available at https://povertylaw.homestead.com/files/Reading/Security_Deposit.pdf

[2]Mungall's appellate brief suggests that two courts – *Kaeding v. Auleciems*, 886 N.W.2d 658 and *Ellis v. Thompson*, Minn. Ct. App. File No. A-14-1991 (Jun. 22, 2015) -- have ruled on the issue. However, neither one dealt with the timing issue or when the three-week clock starts. Both cases are available at https://scholar.google.com/ under "Case law".

[3]Available at https://mn.gov/law-library-stat/archive/ctapun/2019/OPa182020-061719.pdf

2017 she met the Garrys and for the first time provided the Garrys with a mailing address for delivery of her deposit. On September 27, 2017, the Garrys emailed her an accounting denying return of the deposit and listing alleged damages and costs of repair as a basis to keep the deposit.

Mungall sued the Garrys in conciliation court for $1,479.95, apparently representing her deposit + interest.[4] She made no claim for statutory penalties. The Garry's counterclaimed for $3,613.04 plus a $70 filing fee for a total of $3,683.04, based on a list of seven damaged items and an unpaid water bill.[5]

The conciliation court ruled entirely in the Garry's favor, awarding them $3,683.04 and denying all of Mungall's claim. She appealed to district court without amending her claim and then hired an attorney to try the case

Neither party filed any pre-trial or post-trial pleading[6]. The case was tried to the court. The district court judge found that only $650.21 of the losses claimed by the Garrys were supported. Based on that finding and some legal reasoning, it entered judgment for Mungall as follows:[7]

- $799.79 (deposit of $1,450.00 minus $650.21)
- $23.09 interest on the $799.79[8]
- $1,450.00 penalty under Minn. Stat. § 504B.178, subd. 4 for non-timely return of deposit[9]

---

[4]Mungall's pro se conciliation court compliant, PDF page 1 of Appendix 1, doesn't explain the calculations behind the $1,479.95 at all. The amount of the deposit and the dates of the tenancy emerged at trial. At 1% statutory interest, her deposit earned $1.208⅓ per month so $29.95 represents 24.74 months of interest on $1450. Mungall likely estimated interest on a daily basis from 8/8/15 to 8/31/17, which would be $29.9354. Her complaint included a scrivener's error in that it demanded "$1479.95 plus a $75 filing fee for a total of $2534.95 [sic]"; she clearly meant to write a "total of $1534.95" not "total of $2534.95".

[5]See PDF page 2 of Appendix 1.

[6]Mungall's attorney did file a post-judgment affidavit regarding attorney fees.

[7]See PDF page 13-14 of Appendix 1.

[8]The trial court's order stated its calculation as follows: "simple interest at one percent per annum from August 1, 2015 to July 31, 2018." See PDF page 13 of Appendix 1. The 1% figure is from Minn. Stat. § 504B.178, subd. 2. Where the dates come from is unclear.

[9]How the district court decided it had the authority to award more than the $1479.95 plus costs and fees demanded in the complaint or a penalty not demanded in that complaint is unclear. Perhaps the issue was tried by consent or perhaps this was error by the trial court.

• $43.50 interest on the $1,450[7].
• Attorney fees based on an attorney-fee clause in the lease, amount to be determined once Mungall's attorney submitted an affidavit listing the fees[5].

With somewhat rambling pleadings, the Garrys appealed to the Court of Appeals on several issues. Mungall's attorney filed a brief. The Court of Appeals affirmed completely.

DISCUSSION

All but one of the court's holdings were correct, but the holding affirming the $1,450 + interest penalty under Minn. Stat. § 504B.178, subd. 4 seems wrong, specifically its decision as to when the 21-day clock for return of the security deposit starts.

Minn. Stat. § 504B.178, subd. 4 requires return of or accounting for the deposit in a three-week period. Mungall's appellate brief[10] argued that the clock started August 31st, the day her tenancy ended, making the September 27th accounting late by six days. The Garrys argued the clock started September 6th, the day they were first given Mungall's delivery address, making the deadline September 27th, which they met. The district and appellate courts agreed with Mungall.

The courts' analyses and Mungall's argument[11] to the Court of Appeals are all short and conclusory. Below I present what I think is a proper analysis.

My analysis is a bit lengthy but my excuse is that the statute evolved over several decades and amendments, leaving a statute that is a bit convoluted.

As the Court of Appeals states, the penalty the trial court imposed under Minn. Stat. § 504B.178, subd. 4 is required if and only if the Garrys missed the deadline under Minn. Stat. § 504B.178, subd. 3(a) which reads:

> Subd. 3. **Return of security deposit**. (a) Every landlord shall:
>
> (1) within three weeks after termination of the tenancy; or
>
> (2) within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant,

---

[10]The brief is reprinted on PDF pages 15-35 of Appendix 1.

[11]Mungall's argument is on PDF pages 30-31 of Appendix 1. The district court's analysis is on PDF pages 11-12 of Appendix 1. The court of appeals analysis is on pages 4-6 of its slip opinion.

> and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as provided in subdivision 2, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof.

A completely literal reading of this provision would be absurd. Taken literally, the landlord must either act within three weeks of termination of the tenancy OR within five days of the tenant vacating due to legal condemnation. Moving out due to condemnation also ends the tenancy. Thus, taken literally, the provision would allow a landlord of a condemned building a choice – act in three weeks or act in five days. The landlord would chose three weeks, rendering subparagraph (a)(2) irrelevant. Obviously this is wrong.

Thus, what subdivision 3(a) must mean is this:

> (1) *Unless the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, the* landlord shall within three weeks after termination of the tenancy and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as provided in subdivision 2, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof.
>
> (2) *If* the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, *the* landlord shall within five days of the date when the tenant leaves the building or dwelling and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as provided in subdivision 2, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof.

Put another way, in the instant case the condemnation part of the subdivision can be blue-penciled out of the statute, leaving the following, otherwise intact language, as the language to be construed:

> landlord [Garrys] shall: (1) within three weeks after termination of the tenancy and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as provided in subdivision 2, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof.

For the moment, put aside the second “after”. This leaves a three-week deadline based on two things, “termination of tenancy” and “receipt of the tenant's mailing address or delivery instructions”. For brevity I’ll abbreviate the return-or-furnish-a-statement requirement (“return

the deposit to ... thereof") as "account for the deposit".

Eliminating the second "after" and with the abbreviation, this leaves the language as:

> landlord shall, within three weeks after termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, account for the deposit.

This is identical to a law which says that:

> landlord shall, within three weeks after receipt of the tenant's mailing address or delivery instructions and termination of the tenancy, account for the deposit.

The order of the two things – tenancy termination and receipt of the tenant's mailing address or delivery instructions – doesn't matter. Both sentences mean the same thing – the three-week clock only starts when both things have happened. A grammarian would say that the preposition "within" has a compound object; for example, "Jane saw Mary near that man and a woman" means that Mary is close to both a man and a woman, not just a man.[12]

So what is the effect of the second "after"? There are two possibilities. One is simply that it clarifies that the time point of receipt of the delivery instructions is after the landlord gets the information– the landlord must receive the delivery instructions for the three-week clock to start. The other is the one the *Mungall* court adopted – that it eliminates the connection between the clock and receipt of delivery instructions. In other words, the "plain language" of the statute is not plain and the statute is ambiguous.

To construe this ambiguous statute, I consider two things: [i] the logical consequences of each possible construction; and [ii] the legislative history of the statute.[13]

---

[12]The example is taken from the website https://webapps.towson.edu/ows/ModuleCASE.aspx Cases applying this grammatical rule include *Kokomo Urban Development, LLC v. Heady*, – N.E.3d – (Tax Ct. Ind. May 13, 2019) (slip op. at 9); *Republic-Vanguard Ins. Co. v. Mize*, 292 S.W.3d 214, 219-220 (Tex.App.—Amarillo 2009, no pet.); *Glass v. Kemper Corp*., 920 F.Supp. 928, 931 (N.D.Ill.1996); *In re Payless Cashways*, 215 B.R. 409, 414-415 (Bankr.W.D.Mo. 1997); and *Peters v. Vannatta*, 40 Haw. 287,296 (1953).

[13]In its letter (order) denying reconsideration, the trial court briefly suggested one rule of construction supporting its ruling – that the statute is a consumer-protection statute and should read broadly to protect the tenant. If it weren't for the logical problems with its construction, this would be an important consideration.

The Court of Appeals construction of Minn. Stat. § 504B.178, subd. 3 leads to absurd results in many cases.

As to logical consequences, whatever the statute says it must govern all situations, including [1] the instant one (the landlord receives delivery instructions a few days after the tenancy terminates), [2] the landlord receives delivery instructions more than three weeks after the tenancy terminates, and [3] the landlord receives it at the very end of the three weeks (e.g. at 11:30 pm on the 21st day after the tenancy ends).

What is the deadline to mail the deposit in each situation under the *Mungall* court's holding? It would be after the delivery but how much after?

In situation #1 (Jill Mungall's situation), the landlord got fifteen days to mail the letter and the deadline was clear under the court's rule – 11:59 pm on the 21st day after termination of tenancy.

But in situation #2, the answer is unclear. Is the deadline one nanosecond after receipt of delivery? As long as it takes to walk to the nearest mailbox? A few days after? A "reasonable time" after? What if the landlord is away from any mailbox, say in Antarctica on a two-week cruise when she is emailed the delivery instructions? The landlord is facing a harsh, bright-line penalty under Minn. Stat. § 504B.178, subd. 4. She needs a clear, bright-line deadline[14] but under the *Mungall* court's construction there is none. The court's reading of the statute is unreasonable and thus must be wrong.[15]

Situation #3 exposes the same problems. What if the Garrys got delivery instructions at 11:30 pm on September 21st? Did they have only 29 minutes to rush out to the nearest mailbox? That's not reasonable. Or is the rule (a non rule) the same as in the second situation? Situation #3 exposes another problem as well. A wily tenant who knows he is owed at least some of the deposit will wait until the last minute and send an email to the landlord with delivery instructions at 11:59 pm on the 21st day after termination of tenancy. When the landlord does not mail the deposit check in the next minute, under the *Mungall* court's construction the landlord owes the penalty. The wily tenant's deposit has magically doubled through no fault of the innocent landlord.

Thus, the *Mungall* court's construction must be wrong. The Garrys' construction must be right.

---

[14]See Minn. Stat. § 645.17(2) ("the legislature intends the entire statute to be effective and certain") and *Ly v. Nystrom*, 615 NW 2d 302,314 (Minn. 2000) (if a "statute abrogates the common law, the abrogation must be by express wording or necessary implication").

[15]See Minn. Stat. § 645.17(1) ("the legislature does not intend a result that is absurd, impossible of execution, or unreasonable").

*The legislative history of Minn. Stat. § 504B.178, subd. 3 makes it clear that the clock starts only when the tenancy terminates **and** the landlord receives delivery instructions for return of the deposit.*

A copy of every version of the Minnesota security deposit session laws is available at https://homelinemn.org/selected-legislative-history/ . The current version of Minn. Stat. § 504B.178, subd. 3 was last materially amended in 1992 and only the following four session laws are relevant (underlining shows new language added by the session law, and strikeout shows deleted language):

1971 MINN. LAWS CH. 784, S. 1:

Any person … which requires a … security deposit … shall refund said deposit or furnish to the renter vacating such property a written statement showing the reason for the withholding of the deposit, or any portion thereof, within 31 days after the renter vacates the property [or be subject to the following consequences].

1973 MINN. LAWS CH. 561:

Sec 1 … Every landlord shall, within two weeks after termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return such deposit ... to the tenant or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit ... [or be subject to the following consequences, including the penalty in subdivision 4].

Sec. 2 … Minnesota Statutes 1971, Section 504.19, is repealed.

1977 MINN. LAWS CH. 280, S. 2:

Every landlord shall, within ~~two~~ three weeks after termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return such deposit ... to the tenant or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit ... [or be subject to the following consequences, including the penalty in subdivision 4].

1992 MINN. LAWS CH. 376, ART. 1, S. 5:

(a) Every landlord shall:
(1) within three weeks after termination of the tenancy; or
(2) within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and after receipt of the tenant's mailing address or delivery instructions, return the deposit return ... to the

> tenant or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit ... [or be subject to the following consequences, including the penalty in subdivision 4].

The 1971 Law.

The original, 1971 law set a 31-day deadline to either return the deposit or account for it ("account" meaning supply the written statement giving reasons for non return). The law said nothing about the tenant supplying delivery instructions. The 31-day clock started when the tenant vacated the property. The landlord was left to her own devices to find the tenant.

*The 1973 and 1977 Law*s.

The 1973 law completely replaced the 1971 law. It required that the

> landlord shall, within two weeks after termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return [or account for] such deposit....

The 1977 law only changed "two weeks" in the 1973 law to "three weeks".

The 1977 law set a three-week deadline based on two things, "termination of tenancy" and "receipt of the tenant's mailing address or delivery instructions". For exactly the same reason as discussed above (on page 5 above between the red brackets, ⫤ and ⫣) it is crystal clear that under the 1977 law the three-week clock did not start until two things both occurred – the tenancy terminated and the landlord received delivery instructions.

The 1992 Law and its legislative history.

Now let's examine what the 1991-1992 legislature did. Its grammatical choices were poor but a quick reading of the law indicates that its only goal was shortening the three-week clock to five days if the home was condemned through no fault of the tenant.

Indeed, when the chief authors presented the bills to the first committees hearing the bill they made this clear.

Senator Larry Pogemiller introduced the omnibus housing bill at the Senate Committee on Economic Development on March 25, 1991[16]. Here is his entire presentation on the subject (there

[16]A legislative history of the written record is available in Appendix 2. The written record does not include transcriptions of the committee meetings or floor debates. Audio recordings for most of these are available at https://www.leg.state.mn.us/lrl/history/audio/ . These recordings are digital copies of analog tapes donated by the legislature to the Gale Library at the Minnesota History Museum. The donation was "incomplete" in that some tapes were lost by the legislature,

were no follow up questions or comments):

> Sections 4 and 5[17] work together and they say that a landlord would have to return a damage deposit if a building is condemned presuming that the condemnation is not a result of willful, malicious or irresponsible conduct by the tenant. Normally the landlord has three weeks after termination of tenancy to return the deposit. This says that in instances of condemnation you have to do it in five days.

The same day in the House Committee on Housing, the House author, Representative Karen Clark, presented the bill by introducing Paul Onka and asking him to go through the bill. Here is his entire presentation on the subject (there were no follow up questions or comments):

> Sections 4 and 5[18] together shorten to five days the time in which a landlord must return a damage deposit if the building is condemned. Generally speaking, that's a situation where the tenant must move out on extremely short notice. What common situations [recording unclear] require the tenant vacate almost immediately if not within just a few days after the notice has been issued. This requires of course that the tenant move out right away and oftentimes post a different deposit on a different building. So we're shortening up here the time period within which that deposit must be returned if the building is condemned. I should add, it's not in the summary [apparently distributed to the committee but not in the Gale Library files] but in the bill, there is a limitation on this that the building is condemned for reasons not due to inappropriate actively or damage by the tenant.

Before Sen. Pogelmiller spoke, the Senate counsel had distributed a summary of the bill to the committee. Here the counsel's entire discussion of sections 4 and 5:

> Sections 4 and 5: Shortens to five days the time in which the landlord must return a

---

some were incomplete (fallible human operators turned off the recorder too early or turned it on too late), and some were garbled as if the tape operator put his sweater over the microphone. The quotes in this blog are my transcriptions of portions of those audio recordings.

[17]As laid out in Appendix 2, the actual bill being presented by Sen. Pogemiller was SF 951. This large bill eventually was merged into SF 720, a massive bill that became 1992 Minn. Laws ch. 376. He was referring to sections 4 and 5 of Article 1 of that bill, language that eventually ended up in sections 5 and 6 of art. 1 of SF 720.

[18]Similarly to the situation in the Senate, Mr. Onka was referring to sections 4 and 5 of Article 1 of HF 714, a large bill equivalent to SF 951 and which was eventually merged into SF 720 as passed by the House.

damage deposit if the building is condemned.[19]

In other words, the only purpose of the bill was creating a shorter clock for termination by condemnation than ordinary termination of tenancy. **The authors intended to leave untouched the 1977 law's rule that the clock starts once both tenancy termination and provision of delivery instructions had occurred.**

This same language made it unchanged into the final House bill passed on 5/18/91.[20]

With the exception of one word, this same language also made it unchanged into the final Senate bill passed on 5/15/91. The exception was that the Senate bill added the word "after" before the word "receipt".

Here is how the word "after" made it into the Senate bill: The Senate Committee's hearing on SF 951 occurred over two days -- March 25, 1991 and April 3, 1991. A number of amendments were considered but none of the discussion other than Sen. Pogemiller's introduction had anything to do with the security-deposit language.[21] The delete-all amendment which the committee voted on, SF951A-1, did not include the word "after". However, somehow the committee's report added the word "after" just before "receipt" in the engrossed bill referred to the Senate Judiciary committee. That word "after" stayed in the bill that was merged into SF 720 as it went through the Senate Judiciary and Senate Finance committees on the way to the floor. See the engrossed bill as signed for and reported by the committee chair, Sen. Metzen.[22]

How did this happen? I discussed this with Greg Knopff of the Minnesota Revisor's office. He explained that occasionally a committee chair, usually based on discussions with staff counsel, will change a word or punctuation mark before preparing and signing off on a bill's engrossment. This is never intended to change the meaning of a bill and is never intended to change or overturn the committee's work. Senator Metzen did this to SF951, unilaterally adding the word "after".

★As a result of the above, when the House initially passed SF 720 on May 18, 1991 and when

---

[19]See Appendix 2, Endnote 7.

[20]As shown in Appendix 2, its route was complicated. While the version of SF 720 which the House passed on 5/18/91 had many changes compared to the introduced bill, none the changes to this massive bill involved the security-deposit portion.

[21]See the committee minutes for those two committee meetings, Appendix 2, Endnote 6 and 10. I also listened to the recordings of those entire meetings and confirmed that nothing was discussed on the subject.

[22]See Appendix 2, Endnote 9.

the Senate initially passed SF 720 on May 20, 1991, the Minn. Stat. § 504.20, subdivision 3, security-deposit language differed by only the word "after". The huge bills had other differences and therefore were sent to a conference committee, which met on May 20, 1991.

A recording of the first portion of the conference committee is available. It is clear from listening to it that it contains the committee's entire discussion of the "after" issue.[23] The recording does not identify the speakers. The meeting of the six conferees is apparently chaired jointly by Rep. Karen Clark (I know her and recognize her voice), who carried the House housing bill, and an equivalent senator (probably James Metzen). A woman, who I think was a staff counsel ("Leader"), led the committee through the bills. Here is my best transcription of what was said, starting at 2'45" on the recording:

> Leader: Section 5. Return of damage deposit, takes the House [sic] language. The only difference is one word and that is the word "after". Section 6 [about tort liability] is out.
>
> Rep. Connie Morrison (a female conferee besides Clark/there were only two female conferees): What's the big difference before or after?
>
> Leader: Yes. I've got it. And I assume it's still open for discussion.
>
> Group: [laughter]
>
> Rep. Morrison: The word after?
>
> Rep. Clark: We can go back to that.
>
> Leader: The protection against illegal activity. That completes Article 1. The only difference the only area of contention seems to be the word after.
>
> Male Senator: No problem.
>
> Leader: Okay.
>
> Male Senator: We'll concede to the House.
>
> Group: [laughter]
>
> Rep. Clark: We can come back.
>
> Leader: Article 2 .....

[23] See/hear https://www.leg.state.mn.us/lrl/history/audio/file?mtgid=771229 .

At 8'46" the committee returns to the subject as follows:

> Rep. Morrison: What are the implications of that word?
>
> Leader: I thinks it's a clarification, no one felt very strongly about it either way. [a lot of mumbling about page numbers, then at 10'01" the leader continues] It's still open to discussion. [mumbling] Let me read what the Senate has, this is the difference is. The language is identical to what is in the House except what the House says is it adds [... reads bill verbatim]. What the House says is "and receipt of the tenant's mailing address" It's a clarifying word only. It has no substantive.
>
> Senate Chair: No substantive.
>
> Rep. Morrison: That's fine.
>
> Senate Chair: Okay. Tort liability is next ...

This transcription indicates that the conference committee left the word "after" in the bill based on a finding that it merely clarified the House bill and that it had "no substantive" meaning. The transcription is missing the tone that comes through on the recording – that none of the committee members thought the word "after" had any material meaning or that the issue was even worth debating. The conferees seemed to figure that since the bill was officially SF 720, what the heck, leave the word in. Essentially this was a confirmation that Senator Metzen's unilateral addition of "after" did not change the meaning of the law.

As a result, the 1991 conference committee report adopted the Senate language for subdivision 3. This 1991 conference report was not adopted by the Senate for reasons unrelated to the subdivision-3 language at issue in Mungall.

Eventually, ten months later, the conferees met again and issued a second conference report. This second report made no changes to the subdivision 3 language.[24] The report was adopted by both chambers and signed by the governor. So the final resulting subdivision-3 language in the session law was the Senate's version adopted by the 1991 (first) conference committee, left unchanged by the 1992 (second and final) conference committee, and therefore in 1992 Minn. Laws ch. 376, art. 1, s. 5.★

---

[24]Compare the subdivision-3 language in the two reports, 1991-1992 Senate Journal at 5397 (5/20//91) and 6631-6632 (3/23/92). The 1992 conference committee only met "informally" and there is no recording of its discussion. 1992 minutes of the committee (Appendix 5 at PDF page 2). The minutes confirm that the working of subdivision 3 was unchanged from the 1991 report. (The conference committee [actually very likely its staff] added the hard returns and the "(a)", "(b)", "(c)", "(1)","(2)", "(1)" and"(2)" to the bill – obviously only for ease of reading – but changed no words in subdivision 3.)

Recordings of the House and Senate floor debates of SF 720 are missing except for the 3/24/92 House debate on the conference committee report.[25] That 3/24/92 debate started at 7'54" and ended about 26 minutes later. However, almost all the debate was about a St. Paul development issue which took up all the time after Rep. Clark's introduction of the bill. In her very brief introduction she said, "We ran out of time last year. All six conferrees signed off on the bill." or very similar (it's a bit hard to follow). That is, to the extent she discussed any issue at all, Rep. Clark indicted that the word "after" was irrelevant. With or without the word, the House was just re-passing the security-deposit language in original bill which did not have the word.

In summary, the 1991-1992 legislature intended one and only one change to the 1977 law. It added a five-day-clock rule for condemnations but made no change at all to the existing law on the issue of when the clock started vis-a-vis receipt of delivery instructions. The rule remained the same and still remains the same – the clock starts when the later of two events occur, the tenancy is terminated and the landlord receives delivery instructions for return of the deposit.

CONCLUSION

Minn. Stat. § 504B.178, subd. 3 is not a model of clarity. However, both a common-sense reading of the subdivision and its legislative history indicate that the three-week clock does not start until the tenant provides the landlord with delivery instructions for returning the security deposit. The *Mungall v. Garry* court was very likely wrong on this issue.

[25]The Gale library's website says it has the recording of the 5/18/91 House floor debate but the recordings are mislabeled; they are actually Senate floor debates and are irrelevant to this issue. The 3/23/1992 Senate floor debate recording started about 33 minutes late and missed the SF 720 discussion and vote, see the Floor Log (revolution 149) and see/hear the recording at https://www.leg.state.mn.us/lrl/history/audio/file?mtgid=771860 .