

Rental deposit account

Topic: **Proof of identity** Case number: **2017/17**

The client held a rental deposit account with the bank. Having moved out of the apartment she was renting and for which a rental deposit of 3100 CHF had been lodged, the client requested the reimbursement of the deposit in question. The bank told her however that payment was not possible because the account had been transferred into the name of the client's former partner. Not satisfied with this response, the client contacted the Ombudsman. Following the latter's intervention, the bank declared its willingness to pay the assets in the account in question to the client.

The background to this matter involves the dissolution of the registered partnership between the client and her partner. Within the framework of this, the court of jurisdiction decided that the lease agreement for the shared apartment should be transferred, along with all associated rights and obligations, to the client's partner pursuant to Art. 32 of the Registered Partnership Act. The court ruling did not however specify releasing the rental deposit account which had been opened in the client's sole name prior to registration of the partnership.

The client did not think that transferring the lease agreement to her former partner would have also involved transferring the rental deposit account to her partner also. Therefore, according to her, in spite of the legal ruling in question, the bank was not entitled to transfer said account to her ex-partner.

The bank pointed out to the client that, under the terms of the court ruling, the lease agreement had been transferred to the client's former partner along with all associated rights and obligations which included the rights associated with the rental deposit account. It therefore seemed appropriate to it that the rental deposit account in question had been transferred to the new tenant. Moreover, the bank had proceeded on the assumption that the client and her partner would make any compensatory payments directly between themselves.

According to the Ombudsman, the fact that a court ruling ordering a lease agreement to be transferred pursuant to the Registered Partnership Act would permit the transfer of the rental deposit account to the new tenant without the account holder's prior consent was doubtful. In his opinion, one of the key issues was the fact that the account in question was in the client's sole name. The Ombudsman felt that neither the legal provisions (the Swiss Code of Obligations and the Registered Partnership Act) nor the court ruling permitted the transfer of the contract between the bank and the rental deposit account holder without the latter's cooperation. Furthermore, while the separating partners certainly had the ability to stipulate that the rights associated with a rental deposit account should be transferred from one partner to another in a separation agreement, such an agreement was not concluded in this case.

The Ombudsman's intervention led the bank to take a conciliatory stance. Thus, although it pointed out that the correct approach in the situation in question could be open to debate, it declared itself willing to refund the full rental deposit amount to the client.