

Right of non-consenting depositors to draw his funds if bank restricts payment of checks.

February 15, 1933.

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7

Hon. O.H. Moberly,  
Commissioner of Finance,  
Jefferson City, Mo.

Dear Sir:

You state in your letter of February 9 as follows:

"A complaint has reached this Department from a depositor of a bank to the effect that the bank has placed a restriction on the withdrawal of deposits and has refused to honor his checks on the bank, when the amount of the check exceeds the amount he is permitted to withdraw under the restriction.

The depositor insists that this Department force the bank to pay the full amount of his deposit and I will appreciate an opinion from your Department as to the action this Department is to take in the matter."

Your question is what action your department shall take. If check is drawn and signed by depositor, made payable to himself and not stale and depositor personally presents the check and at the time of presentation he has sufficient funds to his credit with the bank to pay same in full and bank makes no objection to payment of check other than that it has placed a restriction on withdrawal of deposits, and check is presented during business hours and depositor offering check has not consented to bank's restriction on withdrawal of deposits, it is the legal duty of the bank to pay the full amount of the check at once to the depositor.

And assuming conditions all exist as set forth in the preceding paragraph hereof it is my opinion you should immediately notify the bank it must at once pay the depositor's check in full when presented, and you should without delay notify the depositor you have written bank it must pay his check immediately.

You should also ask both bank and depositor to immediately notify you whether or not the bank acquiesces in or refuses to comply with your direction herein.

Very Respectfully yours,

APPROVED: