



HOUSING BOARD OF REVIEW

City of Burlington

149 Church Street Room 11
Burlington, Vermont 05401
(802) 865-7122

HOUSING BOARD OF REVIEW CITY OF BURLINGTON

NOTICE OF DECISION

Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

Please note that a person aggrieved by a decision of the Housing Board of Review is entitled to appeal to the Chittenden Superior Court. (See Housing Code Section 18-59 and Vermont Statutes Annotated, Title 24, Section 5006.) The court rules may require that such an appeal be commenced within thirty (30) days of the Board's Order.

Unless an appeal is taken, the Board's Order should be complied with before expiration of the thirty (30) day period.

DATED 7/16/19

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

Josh O'Hara
Board Vice Chair

cc: Peter Jefferys
Mountaha Handy Revocable Trust

**STATE OF VERMONT
CHITTENDEN COUNTY, SS.**

**In re: Request for Hearing of PETER)
JEFFERYS Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by MOUNTAHA HANDY) HOUSING BOARD OF REVIEW
REVOCABLE TRUST for Rental Unit at)
48 Park Street)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on July 1, 2019. Board Vice Chair Josh O’Hara presided. Board Members Patrick Kearney and Patrick Murphy were also present. Petitioner Peter Jefferys was present and testified. Respondent Mountaha Handy Revocable Trust, although notified of the hearing and the opportunity to be heard, was not present.

Upon consideration of the evidence and the applicable law, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Respondent Mountaha Handy Revocable Trust is the owner of a rental unit, 48 Park Street, in the City of Burlington which is the subject of these proceedings.
2. Petitioner moved into the rental unit on or about April 1, 2014 under the terms of a written lease.
3. Petitioner paid a security deposit of \$1350.00 to respondent. Petitioner was to receive back his security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner vacated the apartment on April 29 or 30; he was unsure of the actual date.
5. Respondent sent petitioner a list of itemized deductions from the deposit in accordance with the requirements of city ordinance. Petitioner’s entire security deposit was withheld. Said statement itemized deductions totaling \$3,098.40. Petitioner disputed the deductions.
6. Interest in the amount of \$10.15 was credited to the deposit.

7. As respondent did not appear at the hearing, petitioner's objections to the withholding of his deposit were uncontested. Consequently, the Board will order that the deposit be returned in full.

8. Although not part of the itemized list of deductions, petitioner received a water bill covering the period 4/1/19 – 5/1/19 that he questioned.

CONCLUSIONS OF LAW

9. The City of Burlington's security deposit ordinance, Minimum Housing Code Sec. 18-120, took effect April 10, 1986 and governs any rental arrangements for dwelling units in the City of Burlington entered into or renewed after that date.

10. The State of Vermont's Landlord and Tenant Act, now codified at 9 V.S.A. Sec. 4451-68, applies to rental agreements for residential property entered into, extended or renewed on or after July 1, 1986. Its terms are to "be implied in all rental agreements" to which it is applicable. 9 V.S.A. Sec. 4453.

11. Under the city ordinance, as well as state law (the terms of which must be implied in the parties' rental agreement), a landlord must return the security deposit to a tenant within 14 days from the date on which the tenant vacated or abandoned the dwelling unit, with a written statement itemizing any deductions. City ordinance also provides that the written statement must inform the tenant of the opportunity to request a hearing before the Burlington Housing Board of Review within 30 days of receipt of the landlord's written statement. Minimum Housing Code Sec. 18-120(c). The statement and any payment must be hand-delivered or sent by mail. Minimum Housing Code Sec. 18-120(c). If a landlord fails to return the deposit with a statement within 14 days, the landlord forfeits the right to withhold any portion of the security deposit. See, Minimum Housing Code Sec. 18-120(c) and 9 V.S.A. Sec. 4461(e). Proper notice was provided to petitioner.

12. A tenant, upon receiving notice of an owner's intent to withhold any part of the deposit, may object and request a hearing before this Board to review the reasonableness of the owner's deductions. Minimum Housing Code Sec. 18-120(e). Petitioner disputed the withholding of the deposit and requested a hearing. Both parties were notified of the hearing; respondent did not attend the hearing. Consequently,

petitioner's challenge to the withholding of his deposit was not contested. Therefore, the Board will enter judgement for petitioner.

ORDER

Accordingly, it is hereby ORDERED:


13. Petitioner Peter Jefferys is entitled to recover from respondent Montaha Handy Revocable Trust the following amounts:

a) \$1,360.15 of principal amount of the deposit (including interest) improperly withheld after May 14, 2019; and

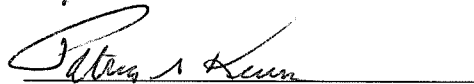
b) Additional interest of \$0.01 per day from May 15, 2019 until such date as the amount improperly withheld is returned to petitioner.

DATED at Burlington, Vermont this 16th day of July, 2019.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Josh O'Hara



Patrick Kearney



Patrick Murphy