



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 9/19/22

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

/s/ Charlie Gliserman
Charlie Gliserman
Hearing Officer

cc: Travis Miller
Cristina Alicea

**CITY OF BURLINGTON, VERMONT
HOUSING BOARD OF REVIEW**

**In re: Request for Hearing of TRAVIS MILLER,)
DANIEL HUREWITZ and CHARLIE)
HENAHAN Regarding Withholding of) Security Deposit Appeal
Security Deposit by CRISTINA ALICEA)
for Rental Unit at 190 Park St, Apt. 2)**

DECISION AND ORDER

The above-named hearing came before the Housing Board of Review on August 22, 2022; the hearing was held remotely via Zoom. For purposes of expedition, Board Member Charlie Gliserman was appointed Hearing Officer to hear and decide the above-referenced matter.¹ Petitioners Travis Miller, Daniel Hurewitz and Charlie Henahan were present and testified. Respondent Cristina Alicea was also present and testified.

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 Cristina Alicea is the owner of a rental unit, 190 Park Street, Apt. 2, in the City of Burlington which is the subject of these proceedings.
2. Petitioners Travis Miller, Daniel Hurewitz and Charlie Henahan moved into the rental unit with a written lease which ran from June 1, 2021 to May 26, 2022. Monthly rent was \$1950.00.

¹ Board Members Evan Litwin and Olivia Taylor recused themselves from taking part in the case. Respondent Cristina Alicea objected to Board Member Betsy McGavisk taking part in the case after she disclosed she worked with one of the petitioners a couple of years ago; consequently, Betsy McGavisk recused herself and did not take part in the case.

3. Petitioners paid a security deposit of \$1950.00 to respondent. Petitioners were to receive back their security deposit at the end of the lease minus any amounts withheld for damages.

4. Petitioners vacated the apartment on May 31, 2022.

5. On June 2, 2022, respondent sent petitioners an email informing them that she had inspected the apartment and found a broken window in the kitchen. As the damage occurred during petitioners' tenancy, respondent informed them that she would be withholding money from the deposit to cover the repair of the window. She informed them she would follow up once she knew how much the window would cost.

6. On June 17, 2022, petitioners sent respondent an email asking about the window repair and whether or not respondent knew what the cost of the repair would be. Respondent replied that she was still waiting for a quote from Able Paint and Glass. Respondent reiterated that the cost of the repair would be deducted from petitioners' deposit.

7. On July 15, 2022, respondent emailed petitioners to inform them that \$722.55 of the deposit was being withheld for the cost to replace the broken window. Respondent asked for an address for petitioners even though they provided her with a forwarding address in a May 25, 2022 email to her.

8. No money was returned to petitioners. In addition, none of respondent's emails informed petitioners of their right to request a hearing before this Board.

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 to the last-known address of the tenant, which may be the address of the rental unit if no forwarding address is provided. 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). Respondent did not return any part of the deposit to petitioners, did not provide an itemized list of deductions to petitioners within 14 days and did not inform petitioners of their right to dispute the withholding of the deposit to this Board within 30 days. Consequently, the Hearing Officer concludes that respondent forfeited the deposit.

12. Petitioners are entitled to recover interest on the security deposit. Minimum Housing Code Sec. 18-120(c). The Housing Code requires that the security deposit be held by the owner in an interest-bearing account with an interest rate equivalent to a current Vermont bank

passbook savings account. Sec. 18-120(a). The Board applies the interest rate currently found in most bank passbook savings accounts – 0.25% simple annual interest.

Order

Accordingly, it is hereby ORDERED:

13. Petitioners Charlie Henahan, Travis Miller and Daniel Hurewitz are entitled to recover from respondent Cristina Alicea the following amounts:

- a) \$1950.00 of the security deposit improperly withheld after June 14, 2022;
- b) Interest in the amount of \$5.00 on the entire deposit for the period June 1, 2021 to June 14, 2022; and
- c) Additional interest of \$0.01 per day from June 15, 2022 until such date as the amount improperly withheld is returned to petitioners.

DATED at Burlington, Vermont this 19th day of September, 2022.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

/s/ Charlie Gliserman
Charlie Gliserman
Hearing Officer