

CITY OF BURLINGTON, VERMONT

HOUSING BOARD OF REVIEW

In re: Request for Hearing of ANEESA ADHAB)
Regarding Withholding of Security Deposit by) **Security Deposit Appeal**
BURLINGTON HOUSING AUTHORITY for Rental)
Unit at 82 Hillside Terrace)

DECISION AND ORDER

The above-named hearing came before the Housing Board of Review on May 18, 2020 and was continued to June 1, 2020; both hearings were held electronically via Zoom. Board Chair Josh O’Hara presided. Board Members Patrick Kearney, Patrick Murphy, Olivia Pena and Betsy McGavisk were also present. Petitioner Aneesa Adhab was present and testified at both hearings. Respondent Burlington Housing Authority was represented at both hearings by Janet Dion. Due to technical difficulties, Janet Dion was not able to fully testify at the May 18 hearing; at the June 1 hearing, she was able to complete her testimony. Also present at both hearings was Mona Tolba who served as interpreter for petitioner.

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 Burlington Housing Authority (“BHA”) is the owner of a rental unit, 82 Hillside Terrace, in the City of Burlington which is the subject of these proceedings. Janet Dion manages the property.
2. Petitioner moved into the rental unit with a written lease commencing on October 6, 2017. The lease ran for 12 months and automatically renewed on a month-to-month basis after that.

3. Petitioner paid a security deposit of \$772.00 to respondent. Petitioner was to receive back her security deposit at the end of the lease minus any amounts withheld for damages.

4. Petitioner vacated the apartment on December 19, 2019.

5. On January 2, 2020, respondent sent petitioner a written statement itemizing deductions from the deposit in accordance with ordinance requirements. The statement itemized damages totaling \$2,689.51. None of the deposit was returned. Petitioner disputed the deductions.

6. Interest in the amount of \$19.93 was credited to the deposit.

7. Appearing on the statement of deductions was a balance forward on petitioner's rental account of \$1,165.94 for unpaid utilities.

8. Respondent deducted \$1507.50 from the deposit for making repairs and for cleaning the unit. Respondent's maintenance department charges \$55/hour to make repairs and to clean. The statement noted that the kitchen floors, kitchen cabinets, the stove, and living room and bedroom floors were dirty and needed cleaning. Photos submitted by respondent indicate there was a lot of cleaning that needed to be done in the kitchen. Based on respondent's move-out inspection form, it appears that approximately 11 hours were spent on cleaning. When questioned about the hourly rate for cleaning (which one Board member characterized as outrageous), Janet Dion just stated that BHA's maintenance department charges \$55/hour for both cleaning and repairs. Petitioner disputed the deduction and testified she had 2-3 people helping her clean the unit before she moved out of it. Petitioner also testified she always kept the house clean so could not understand the charge for cleaning.

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.

12. Section 18-120(c) of the Minimum Housing Code permits a landlord to retain all or part of the security deposit for the actual cost to repair damage beyond normal wear and tear which is attributable to the tenant in order to maintain the condition and habitability of the unit, for nonpayment of rent, for nonpayment of utility or other charges the tenant was required to pay, and for expenses required to remove from the rental unit articles abandoned by the tenant. A tenant may object to the withholding and request a hearing before this Board for a review of the

reasonableness of the owner's deductions; the Board is tasked with making findings and conclusions regarding the reasonableness of the deductions. Sec. 18-120(e). In this case, respondent deducted a charge of \$55/hour for cleaning – the same rate of charge for making repairs which arguably requires more skill. Janet Dion did not explain the rate of charge, but merely indicated that was what the maintenance department charged. While the Board finds a deduction for cleaning to be reasonable, as the cleaning was beyond what was attributable to normal wear and tear, we find the rate of charge for cleaning to be unreasonable. In the Board's experience, the rate of charge for cleaning has been no more than \$35/hour. The Board concludes a reasonable rate for cleaning was \$35/hour.

13. Based on the evidence and testimony, the Board further concludes that the deduction for unpaid utilities was reasonable.

14. As the deductions for unpaid utilities and cleaning exceed the amount of the security deposit, the Board concludes the withholding of the entire security deposit was proper.

Order

Accordingly, it is hereby ORDERED:

15. Petitioner Aneesa Adhab's request for relief is DENIED.

DATED at Burlington, Vermont this 30th day of June, 2020.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara
Josh O'Hara

/s/ Patrick Kearney
Patrick Kearney

/s/ Olivia Pena
Olivia Pena

/s/ Betsy McGavisk
Betsy McGavisk