

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

**In re: Request for Hearing of JACOB CARR, )  
SHAILYN WRIGHT and MORGAN )  
SIESTLAD Regarding Withholding of ) Security Deposit Appeal  
Security Deposit by GREG CASTO for )  
Rental Unit at 72 Grant Street )**

**DECISION AND ORDER**

The above-named hearing came before the Housing Board of Review on September 21, 2020; the meeting was held virtually via Zoom. Board Chair Josh O'Hara presided. Board Members Olivia Pena, Betsy McGavisk and Charlie Gliserman were also present. Petitioners Jacob Carr and Morgan Siestlad were present and testified. Respondent Greg Casto was present and testified. Also appearing and testifying as a witness was Erin Laub.

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 Greg Casto is the owner of a rental unit, 72 Grant Street, in the City of Burlington which is the subject of these proceedings.
2. Petitioners moved into the rental unit at different times; the most recent lease ran from April 19, 2018 to May 28, 2020. Monthly rent was \$2100.00.
3. Petitioners paid a security deposit of \$2100.00 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 28, 2020.

5. On June 12, 2020, respondent sent an email to each petitioner informing them of deductions from their deposit. Each tenant was charged \$200.00 for cleaning; in addition, Shailyn Wright's entire deposit was withheld because rent for the month of June was withheld by her. A total of \$1300.00 was withheld from the total amount of the deposit and a total of \$800.00 was returned to Jacob Carr and Morgan Siestlad. The emails did not include notice of the tenants' right to dispute the withholding of the deposit before this Board. The emails were the only communication sent to petitioners about the deposit.

6. Interest was not credited to the deposit.

#### **Conclusions of Law**

7. 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.

8. 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.

9. 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).

10. A landlord who decides to retain all or part of a security deposit must comply with 3 specific requirements of the ordinance: the deposit must be returned within 14 days of the date the tenant vacated or abandoned the rental unit with a written statement itemizing any deductions; the statement must contain notice of the tenant's right to appeal to the Housing Board of Review; and the statement must be hand-delivered or sent by certified mail. *See Lieberman v. Circe*, No. S21-13 Cncv (Crawford, J., March 27, 2013) and Minimum Housing Code Sec. 18-120(c). The Vermont Supreme Court required the literal enforcement of these requirements in *In re Soon Kwon*, 189 Vt 598 (2011). Accordingly, a landlord who fails to meet all of these requirements forfeits the security deposit. In this case, respondent failed to comply with the notice requirements by failing to include petitioners' appeal rights in the statement and by failing to return the deposit within 14 days of the vacate date. Therefore, the Board concludes respondent forfeited the right to withhold any part of the deposit.

11. 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:

12. Petitioners Jacob Carr, Shailyn Wright and Morgan Siestlad are entitled to recover from respondent Greg Casto the following amounts:

a) \$1300.00 of the principal amount of the deposit improperly withheld after June 11, 2020;

b) Interest in the amount of \$11.26 on the entire deposit for the period April 19, 2018 to June 11, 2020; and

c) Additional interest of \$0.01 per day from June 12, 2020 until such date as the amount improperly withheld is returned to petitioners.

DATED at Burlington, Vermont this 6<sup>th</sup> day of October, 2020.

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara

Josh O'Hara

/s/ Olivia Pena

Olivia Pena

/s/ Betsy McGavisk

Betsy McGavisk

/s/ Charlie Gliserman

Charlie Gliserman