



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 12/3/19

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

Josh O'Hara
Board Chair

cc: Michelle Chandler & Kerry Schunk
Tiki Archambeau & Rebecca Taylor

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

In re: Request for Hearing of MICHELLE)
CHANDLER and KERRY SCHUNK)
Regarding Withholding of Security)
Deposit by TIKI ARCHAMBEAU and) **Security Deposit Appeal**
REBECCA TAYLOR for Rental Unit at)
76 Ward Street, #1)

DECISION AND ORDER

The above-named hearing came before the Housing Board of Review on November 18, 2019. Board Chair Josh O’Hara presided. Board Members Patrick Kearney, Patrick Murphy and Olivia Pena were also present. Petitioners Michelle Chandler and Kerry Schunk were present and testified. Respondents Tiki Archambeau and Rebecca Taylor were 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. Respondents Tiki Archambeau and Rebecca Taylor are the owners of a rental unit, 76 Ward Street, #1, in the City of Burlington which is the subject of these proceedings.
2. Petitioners Michelle Chandler and Kerry Schunk moved into the rental unit on June 1, 2016 under the terms of a written lease. Monthly rent was \$1500.00.
3. Petitioners paid a security deposit of \$1500.00 to respondents. 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 August 1, 2019 – the date on which the keys to the unit were returned and respondents had possession of it.

5. On August 15, 2019, respondents sent petitioners a statement itemizing deductions from the security deposit in accordance with ordinance requirements. Said statement itemized deductions totaling \$2,448.06; none of the deposit was returned. Petitioners did not dispute the following deductions: \$130.46 for 4 damaged doors; \$2.44 to replace a wall plate; \$9.57 to replace weather stripping; and \$80.87 for paint. All other deductions were disputed.

6. Interest in the amount of \$3.12 was credited to the deposit.

7. Respondents hired Bob Stahl to make repairs in the unit: replacing interior doors, replacing glass in the entrance door, replacing the bathroom floor transition, installing window blinds, installing weather stripping and adjusting the rear entrance. According to his invoice, Mr. Stahl spent 18 hours making repairs at a rate of \$45/hour; his invoice included \$150.00 for supplies. The invoice does not indicate how much time was spent making each repair. Petitioners questioned the amount of the deduction because they did not receive receipts for all the repairs. Petitioners also argued that the blinds were partially damaged when they moved into the unit, a claim denied by respondents. The Board finds the damage to the blinds was part of normal wear and tear; consequently, we will deduct one hour of Bob Stahl's time from the deduction to install the blinds.

8. Respondents hired Abdullah Sall to paint damaged walls and trim throughout the unit. There was no invoice from Mr. Sall; respondents estimated it would take 15 hours to paint and used a rate of \$30/hour. Petitioners spackled holes in the walls throughout the apartment, but did not paint them. The Board finds it was reasonable to deduct money from the deposit to paint the damaged walls; however, the Board finds a reasonable deduction for painting that was attributable to petitioners is \$300.00 (10 hours at \$30/hour).

9. Immediately after petitioners moved out, respondent Tiki Archambeau went into the unit and discovered fleas in it. He hired Millers Pest Control, Inc. to treat the apartment. Millers charged \$250.00 for their service: \$200.00 for the apartment and \$50.00 for respondent's truck. Respondent's truck became infested because respondent carried the fleas from the apartment to the truck. Petitioners had 2 cats, but did not believe their cats caused the infestation of fleas. The Board finds the damage was attributable to petitioners. However, the security deposit only covers damage to the rental unit, not respondent's truck. Therefore, a reasonable deduction is \$200.00.

10. The Board makes no further findings regarding damages disputed by petitioners.

Conclusions of Law

11. 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.

12. 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.

13. 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.

14. Under the Minimum Housing Code, a landlord may deduct from the security deposit the actual cost to repair damage beyond normal wear and tear which is attributable to a tenant.

Minimum Housing Code Sec. 18-120(c).

15. Based upon its findings above, the Board concludes that respondents were entitled to make the following deductions: 1) \$915.00 for the damages repaired by Bob Stahl; 2) \$300.00 to paint the damaged walls; and 3) \$200.00 to treat the flea infestation. Additionally, petitioners did not dispute deductions totaling \$223.34. Consequently, it was reasonable for respondents to withhold the entire deposit plus interest.

Order

Accordingly, it is hereby ORDERED:

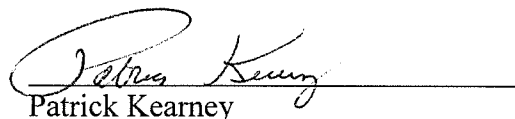
16. Petitioners Michelle Chandler and Kerry Schunk's request for relief is DENIED.

DATED at Burlington, Vermont this 3rd day of December, 2019.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Josh O'Hara



Patrick Kearney



Patrick Murphy



Olivia Pena