



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 6/2/20

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara  
Josh O'Hara  
Board Chair

cc: Steve Cormier & Jenny Rossi  
Earl Handy

**CITY OF BURLINGTON, VERMONT**

**HOUSING BOARD OF REVIEW**

**In re: Request for Hearing of STEVE CORMIER )  
And JENNY ROSSI Regarding Withholding of ) Security Deposit Appeal  
Security Deposit by JANET HANDY and EARL )  
HANDY for Rental Unit at 204 So. Champlain St. )**

**DECISION AND ORDER**

The above-named hearing came before the Housing Board of Review on May 18, 2020.

The meeting was conducted electronically via Zoom. Board Chair Josh O'Hara presided. Board Members Patrick Kearney, Patrick Murphy, Olivia Pena and Betsy McGavisk were also present. Petitioners Steve Cormier and Jenny Rossi were present and testified. Respondent Earl Handy was present and testified. Respondent Janet Handy was represented at the hearing by Mary Small.

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 Earl Handy and Janet Handy are the owners of a rental unit, 204 So. Champlain Street, in the City of Burlington which is the subject of these proceedings.
2. Petitioners Steve Cormier and Jenny Rossi moved into the rental unit on August 1, 2012 under the terms of a written lease. The most recent lease ran from August 1, 2019 to July 24, 2020. Monthly rent is \$850.00.
3. Petitioners paid a security deposit of \$750.00 to respondent. Petitioners are to receive back their security deposit at the end of the lease minus any amounts withheld for damages.

4. In November, 2019, petitioners asked respondents about ending the lease early if they bought a condominium; petitioners indicated they were thinking of looking for one to buy. Respondents indicated the lease ended in July, 2020, and they were responsible for rent until the end of the lease. Respondents also informed petitioners that they were not willing to allow petitioners to sublet the apartment.

5. On March 25, 2020, petitioners sent respondents notice of vacating the apartment. Petitioners informed respondents they would be out of the apartment on or before June 1, 2020. Petitioners testified they moved out, cleaned the apartment and left the keys on the counter on March 27, 2020. The parties sent correspondence back and forth to one another in April and May about each other's responsibilities related to re-renting the apartment and paying rent to the end of the lease. None of petitioners' letters stated they were completely out of the apartment or that they had left the keys to the apartment on the counter. Respondents testified they were unaware that petitioners had completely moved out of the apartment; respondents believed petitioners had the keys to the apartment and were still in possession of it. Petitioners paid rent for the months of April and May.

6. On May 1, 2020, petitioners filed a Request for Hearing before this Board seeking the return of their security deposit even though a letter sent to respondents on April 16 indicated they had surrendered the deposit to respondents. However, a subsequent letter sent on April 27 demanded the return of their deposit. Respondents argued that they had no reason to believe June 1 was not the vacate date since May rent was paid and petitioners did not return the keys to them.

## 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.

9. 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.

8. 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).

9. On March 25, 2020, petitioners provided their notice to vacate the apartment to respondents. That notice indicated they would be out of the apartment on or before June 1, 2020. Rent was paid for the months of April and May. Petitioners did not indicate in any of their subsequent letters to respondents that they were completely out of the apartment. In addition, they did not return the keys to respondents or indicate where the keys were. Given that rent was

paid for May and petitioners' notice to vacate indicated June 1 as the vacate date, the Board concludes petitioners have possession of the apartment until that date (June 1). Consequently, their request for relief is premature.

**Order**

Accordingly, it is hereby ORDERED:

10. Petitioners Steve Corner and Jenny Rossi's request is DISMISSED.

DATED at Burlington, Vermont this 2<sup>nd</sup> 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/ Patrick Murphy  
Patrick Murphy

/s/ Betsy McGavisk  
Betsy McGavisk