

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

**In re: Request for Hearing of JULIO DESMONT )  
Regarding Withholding of Security )  
Deposit by SISTERS & BROTHERS ) Security Deposit Appeal  
INVESTMENT GROUP for Rental Unit at )  
371 Pearl Street, Apt. 9 )**

**DECISION AND ORDER**

The above-named hearing came before the Housing Board of Review on June 7, 2021; the hearing was held virtually via Zoom. Board Chair Josh O'Hara presided. Board Members Betsy McGavisk, Olivia Pena and Charlie Gliserman were also present. Petitioner Julio Desmont was present and testified. Respondent Sisters and Brothers Investment Group, although notified of the hearing and the opportunity to be heard, was not present.

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 Sisters and Brothers Investment Group is the owner of a rental unit, 371 Pearl Street, Apt. 9, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Julio Desmont moved into the rental unit on June 18, 2018 under the terms of a month-to-month lease.
3. Petitioner paid a security deposit of \$1,400.00<sup>1</sup> to respondent. Petitioner was to receive back his security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner vacated the apartment on April 30, 2021.

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<sup>1</sup> The request form petitioner filled out indicated the amount of the deposit was \$1403.50. The written lease indicates petitioner paid a deposit of \$1400.00. The Board believes the difference of \$3.50 is the amount of interest respondent credited to the deposit.

5. Respondent withheld \$625.00 of the security deposit. Petitioner did not provide a copy of the itemized list of damages sent by respondent; consequently, the Board does not know whether or not all the notice requirements were met. Petitioner disputed the withholding of the deposit, arguing that the money withheld was for pre-existing damages. Petitioner stated that the damages existed when he moved into the apartment. There was no testimony to the contrary.

### **Conclusions of Law**

6. 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.

7. 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 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).

9. Petitioner disputed the withholding of his deposit. Respondent did not appear at the hearing to explain the deductions. Therefore, the Board concludes that the deductions were not reasonable as the damages were pre-existing.

### Order

Accordingly, it is hereby ORDERED:

10. Petitioner Julio Desmont is entitled to recover from respondent Sisters and Brothers Investment Group the following amounts:

a) \$625.00 of the principal amount of the security deposit improperly withheld after May 14, 2021; and

b) Additional interest of \$0.004 per day from May 15, 2021 until such date as the amount improperly withheld is returned to petitioner.

DATED at Burlington, Vermont this 14<sup>th</sup> day of July, 2021.

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara  
Josh O'Hara

/s/ Charlie Gliserman  
Charlie Gliserman

/s/ Betsy McGavisk  
Betsy McGavisk