



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 9/17/19

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

Josh O'Hara
Board Chair

cc: Hayley Hancock
Kaanta's Condos LLC, c/o Nicole Delong

**STATE OF VERMONT
CHITTENDEN COUNTY, SS.**

**In re: Request for Hearing of HAYLEY)
HANCOCK, KELSEY WHITE and) CITY OF BURLINGTON
MONICA DEMERS Regarding) HOUSING BOARD OF REVIEW
Withholding of Security Deposit by)
KAANTA'S CONDOS LLC for Rental)
Unit at 47 S. Williams St, Apt. 208)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on August 5, 2019. Board Chair Josh O'Hara presided. Board members Betsy McGavisk, Patrick Kearney, Patrick Murphy and Olivia Pena were also present. Petitioner Hayley Hancock was present and authorized to represent the other tenants as well and she testified in this matter. Nicole DeLong was present as the Property Manager for Kaanta's Condos LLC and was authorized to appear on behalf of that LLC, landlord of the subject apartment, 47 South Williams Street, Apartment # 208, in this matter and she testified as well.

FINDINGS OF FACT

1. Respondent Kaanta's Condos LLC is the owner of 47 South Williams Street, Apartment # 208, which was rented as a rental unit under a lease contract which is the subject property of this proceeding.
2. Petitioners Hayley Hancock, Kelsey White and Monica Demers were the tenants in the rental unit with a lease which began on June 1, 2018 and ended May 22, 2019.
3. Petitioners paid a security deposit of \$2,150.00. Rent for the 12 month lease was \$2150.00 per month (\$2,100.00 if paid before the first of the month). Under the terms of the lease, Petitioners were to receive back the security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioners moved out of the rental unit on May 21, 2019.

5. Respondent sent Petitioner a Notice of withholding within the 14 day period required by law which indicated that there was an accounting for \$449.00 of withholding for damage and a balance for \$1712.00 of the security deposit as a balance due to Respondent. There was \$10.75 included for accumulated interest.

6. Respondent provided two invoices totaling \$449.00 with a check out inventory which broke down the categories of the deductions. There were \$39.00 for light bulb deductions which the Petitioner contested, claiming that all bulbs were working when they departed. There were \$55.00 in additional material costs (burner pans, a refrigerator shelf, screws and anchors or an organizer and patching materials) and there was \$125.00 deducted for the labor costs related to the light bulb installation and the "repairs" and installations related to the other \$55.00 of materials. Tenant testified that all of these costs were for normal wear and tear as described in the lease. Respondent testified that \$230.00 for "cleaning" which was for not leaving the apartment as they had found it. Petitioner testified that any cleaning was related to "normal wear and tear" (including the burner pans which had been wiped clean before the move out) over the course of the year and that they had been required to move out by May 22, 2019 under the lease so that the respondent could do a "deep clean" of the apartment in order to prepare the unit for the next tenants.

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. The City of Burlington's security deposit ordinance, Minimum Housing Code Sec. 18-120 (c), includes language mandating the manner for providing a departed tenant with a written statement which itemizing all deductions withheld from a security deposit; specifically it states that "[a] landlord shall return the deposit to a tenant within fourteen (14) days from the date on which the landlord discovers the tenant vacated or abandoned the rental unit, or the date the tenant vacated the dwelling unit, provided the landlord received notice from the tenant of that date, with a written statement itemizing any deductions. It also states "[t]he landlord shall comply with this section by hand-delivering or sending by certified mail the statement and **any payment required** to the last-known address of the tenant, which may be the rental unit if no forwarding address has been provided." And finally it further states "[i]f a landlord fails to return the security deposit with a statement within fourteen (14) days, the landlord forfeits the right to withheld any portion of the security deposit."

10. Based on the evidence presented, the Board finds that Respondent was not entitled to withhold any of \$449.00 which was withheld. The testimony of Petitioner was deemed credible by the Board as to the fact that all of the lightbulbs were working upon departure from the unit, but in any event the price charged for the lightbulbs (\$39.00) was excessive and is not accepted as proper by the Board. All of the other evidence as to costs and repairs was deemed by the Board as falling within the ambit of "normal wear and tear" and is, therefore, deemed by the Board as costs to be borne by the Respondent.

ORDER

Accordingly, it is hereby ORDERED:

11. Petitioners Hayley Hancock, Kelsey White and Monica Demers are entitled to recover from respondent Kaanta's Condos LLC the following amounts:

a) \$449.00 of the principal amount of the security deposit improperly withheld after May 22, 2019; and

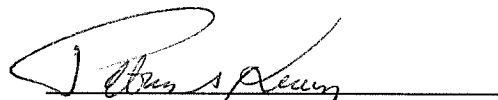
b) Additional interest of \$0.003 per day from May 23, 2019 until such date as the amount improperly withheld is returned to petitioners.

DATED at Burlington, Vermont this 17th day of September, 2019.


CITY OF BURLINGTON
HOUSING BOARD OF REVIEW




Josh O'Hara



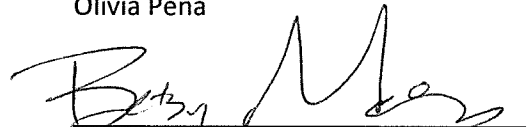
Patrick Kearney



Patrick Murphy



Olivia Pena



Betsy McGavisk