



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 10/19/22

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

/s/ Betsy McGavisk
Betsy McGavisk
Board Chair

cc: Quinn Kimball
J&M Properties

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

In re: Request for Hearing of QUINN)
KIMBALL Regarding Withholding of) Security Deposit Appeal
Security Deposit by J&M PROPERTIES)
for Rental Unit at 80 Front Street)

DECISION AND ORDER

The above-named hearing came before the Housing Board of Review on September 19, 2022; the meeting was held remotely via Zoom. Board Vice Chair Betsy McGavisk presided. Board Members Evan Litwin, Charlie Gliserman, Josh Wronski and Olivia Taylor were also present. Petitioner Quinn Kimball was present and testified. Respondent J&M Properties 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 J&M Properties is the owner of a rental unit, 80 Front Street, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Quinn Kimball and Kyle Weeden, Ryan Darling and Santiago Sanchez moved into the rental unit under the terms of a written lease. Monthly rent was \$3,000. Petitioner and each of his roommates paid \$750 to respondent for rent; they each sent their portion of the rent to Judith McLaurin by VENMO.
3. Petitioner and his former roommates paid a security deposit of \$3,000.00 to respondent. Petitioner was to receive back their security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner and his former roommates vacated the apartment on June 30, 2022.

5. On July 14, 2022, respondent sent each tenant an itemized list of deductions from the deposit in accordance with ordinance requirements. Said statement itemized deductions of \$2514.36 from the deposit. None of the deposit was returned to petitioner.

6. The only deduction disputed by petitioner is \$2150.00 for unpaid rent. Petitioner and his roommates paid monthly rent to respondent by means of VENMO. Petitioner submitted records indicating that rent was paid in full each month (though some payments were late).

7. Interest in the amount of \$0.24 was credited to the deposit.

Conclusions of Law

8. 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.

10. 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). Proper notice was provided.

11. Petitioner disputed the deduction for unpaid rent on the basis that rent was paid in full for each month of the tenancy. Petitioner provided VENMO records for himself and his former roommates showing payments for the entirety of the tenancy. There was no testimony or evidence to refute petitioner's testimony. Consequently, the Board concludes that the deduction for unpaid rent was not proper as rent was paid in full for the entire tenancy.

Order

Accordingly, it is hereby ORDERED:

12. Petitioner Quinn Kimball is entitled to recover from respondent J&M Properties the following amounts:

a) \$2150.00 of the principal amount of the security deposit improperly withheld after July 14, 2022; and

b) Additional interest of \$0.01 per day from July 15, 2022 until such date as the amount improperly withheld is returned to petitioner.

DATED at Burlington, Vermont this 19th day of October, 2022.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

/s/ Betsy McGavisk
Betsy McGavisk

/s/ Evan Litwin
Evan Litwin

/s/ Charlie Gliserman
Charlie Gliserman

/s/ Josh Wronski
Josh Wronski

/s/ Olivia Taylor
Olivia Taylor