



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: Shannon Lucy
William Baker

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

In re: Request for Hearing of SHANNON)
LUCY Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by WILLIAM BAKER) HOUSING BOARD OF REVIEW
for Rental Unit at 19 Grant Street, #4)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on August 19, 2019. Board Chair Josh O’Hara presided. Board Members Patrick Murphy, Olivia Pena and Betsy McGavisk were also present. Petitioner Shannon Lucy was present and testified. Respondent William Baker, 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 William Baker is the owner of a rental unit, 19 Grant Street, #4, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Shannon Lucy moved into the rental unit with a written lease which ran from January 1, 2019 to December 30, 2019. Monthly rent was \$900.00.
3. Petitioner paid a security deposit of \$900.00 to respondent. Petitioner was to receive back her security deposit at the end of the tenancy minus any amounts withheld for damages.
4. Petitioner vacated the apartment on May 29, 2019¹; she left the keys on the counter and informed respondent that she was out of the apartment. Petitioner also provided respondent with a forwarding address.
5. On June 13, 2019, respondent sent a statement to petitioner informing her that \$260.00 of the deposit was being withheld for his costs to re-rent the apartment. Respondent sent the statement to the

¹ On March 5, 2019, petitioner informed respondent that she would be moving out prior to the end of the lease.

address of the rental unit vacated by petitioner even though she provided a forwarding address to him.

Interest in the amount of \$4.50 was credited to the deposit. Respondent returned \$644.50 of the deposit to petitioner.

6. Petitioner disputed the withholding of her deposit and the timeliness of the notice sent to her. In addition, petitioner believed that the withholding of her deposit was willful and requested the Board order respondent to return double the amount withheld. Petitioner argued that her deposit was willfully withheld because respondent did not send the statement of withholding within 14 days even though she reminded him of his obligation to do so.

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. 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). Respondent sent the statement on June 13, 2019 – 15 days after petitioner vacated the

apartment. Respondent's statement was not timely, thus, he forfeited the right to withhold any portion of it.

10. Petitioner argued that respondent willfully withheld the deposit. If the failure to return a security deposit is willful, the landlord shall be liable for double the amount wrongfully withheld. See, Minimum Housing Code Sec. 18-120(c) and 9 V.S.A. Sec. 4461(e). The Board concludes there was insufficient evidence to show the deposit was willfully withheld.

ORDER

Accordingly, it is hereby ORDERED:

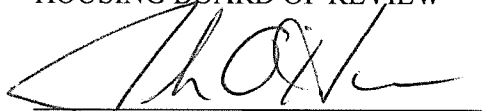
11. Petitioner Shannon Lucy is entitled to recover from respondent William Baker the following amounts:

a) \$260.00 of the principal amount of the security deposit improperly withheld after June 12, 2019; and

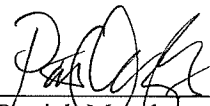
b) Additional interest of \$0.002 per day from June 13, 2019 until such date as the amount improperly withheld is returned to petitioner.

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

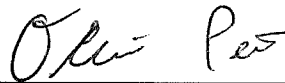
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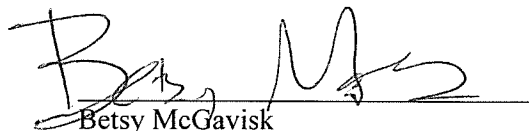
Josh O'Hara



Patrick Murphy



Olivia Pena



Betsy McGavisk