

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

**In re: Request for Hearing of CHRISTINE     )  
      PUZA and MADELINE STERN            )  
      Regarding Withholding of Security    ) Security Deposit Appeal  
      Deposit by CROSBY HARD for Rental    )  
      Unit at 57A North Union Street        )**

**DECISION AND ORDER**

The above-named hearing came before the Housing Board of Review on October 19, 2020; the hearing was held virtually via Zoom. Board Vice Chair Betsy McGavisk presided. Board Members Josh O’Hara, Patrick Murphy and Charlie Gliserman were also present. Petitioners Christine Puza and Madeline Stern were present and testified. Respondent Crosby Hard was also present and testified.

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 Crosby Hard is the owner of a rental unit, 57A North Union Street, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Christine Puza moved into the rental unit on March 4, 2017 under the terms of a written lease. Petitioners Christine Puza and Madeline Stern had an 18-month written lease which commenced on January 1, 2019. Monthly rent was \$2200.00.
3. Petitioners paid a security deposit of \$2200.00 to respondent. Petitioners were to receive back their security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioners vacated the apartment on July 1, 2020.
5. On July 13, 2020, respondent sent a statement to petitioners informing them that part

of their deposit was being withheld. Said statement itemized deductions of \$1530 from the deposit. Respondent returned \$670 of the deposit to petitioners. Respondent's statement did not include notice of petitioners' right to dispute the withholding of their deposit to this Board.

6. Interest was not credited to the deposit.

### **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).

10. A landlord who decides to retain all or part of a security deposit must comply with 3

specific requirements of the ordinance: the deposit must be returned within 14 days of the date the tenant vacated or abandoned the rental unit with a written statement itemizing any deductions; the statement must contain notice of the tenant's right to appeal to the Housing Board of Review; and the statement must be hand-delivered or sent by certified mail.<sup>1</sup> See *Lieberman v. Circe*, No. S21-13 Cncv (Crawford, J., March 27, 2013) and Minimum Housing Code Sec. 18-120(c). The Vermont Supreme Court required the literal enforcement of these requirements in *In re Soon Kwon*, 189 Vt 598 (2011). Accordingly, a landlord who fails to meet all of these requirements forfeits the security deposit. In this case, respondent failed to comply with the notice requirements by failing to include petitioner's appeal rights in the statement. Therefore, the Board concludes respondent forfeited the right to withhold any part of the deposit.

11. Petitioners are entitled to recover interest on the security deposit. Minimum Housing Code Sec. 18-120(c). The Housing Code requires that the security deposit be held by the owner in an interest-bearing account with an interest rate equivalent to a current Vermont bank passbook savings account. Sec. 18-120(a). The Board applies the interest rate currently found in most bank passbook savings accounts – 0.25 % simple annual interest.

### **Order**

Accordingly, it is hereby ORDERED:

12. Petitioners Christine Puza and Madeline Stern are entitled to recover from respondent Crosby Hard the following amounts:

a) \$1530 of the principal amount of the security deposit improperly withheld after July 15, 2020;

b) Interest of \$17.92 on the entire deposit for the period March 3, 2017 to July 15, 2020;

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<sup>1</sup>An amendment to Sec. 18-120(c) removing the "certified mail" requirement took effect on January 7, 2015.

and

c) Additional interest of \$0.01 per day from July 16, 2020 until such date as the amount improperly withheld is returned to petitioners.

DATED at Burlington, Vermont this 4<sup>th</sup> day of November, 2020.

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Betsy McGavisk  
Betsy McGavisk

/s/ Josh O'Hara  
Josh O'Hara

/s/ Patrick Murphy  
Patrick Murphy

/s/ Charlie Gliserman  
Charlie Gliserman