



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 5/4/22

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara  
Josh O'Hara  
Board Chair

cc: Alex Reid  
Jie Zhu

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

**In re: Request for Hearing of ALEX REID            )**  
**Regarding Withholding of Security            ) Security Deposit Appeal**  
**Deposit by JIE ZHU for Rental Unit at        )**  
**183 Shelburne St, Apt. 3                        )**

**DECISION AND ORDER**

The above-named hearing came before the Housing Board of Review on April 18, 2022; the meeting was held remotely via Zoom. Board Chair Josh O’Hara presided. Board Members Betsy McGavisk, Charlie Gliserman, Evan Litwin and Olivia Taylor were also present. Petitioner Alex Reid was present and testified. Respondent Jie Zhu 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. Jadent, LLC is the owner of a rental unit, 183 Shelburne Street, Apt. 3, in the City of Burlington which is the subject of these proceedings. Respondent Jie Zhu is one of the principals in the company and manages the property.
2. Petitioner Alex Reid moved into the rental unit on June 1, 2019 under the terms of a written lease.
3. Petitioner paid a security deposit of \$1450.00 and a pet deposit of \$200.00 to respondent. Petitioner was to receive back his security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner testified he vacated the apartment on January 15, 2022. However, petitioner left some of his belongings in the apartment until January 31. Respondent testified she did not

know petitioner was out of the apartment until January 25, 2022. The keys were not returned to respondent; instead, petitioner gave the keys to the new tenants.

5. On February 2, 2022, respondent sent a statement and check to petitioner at his last-known address, the address of the rental unit, because she did not have a forwarding address for him. Petitioner did not receive this statement or check.

6. On February 17, 2022, petitioner texted respondent about the return of his deposit. Respondent responded that she never got a forwarding address. Petitioner provided his new address and respondent sent out a new check and an itemized statement on February 18, 2022. Respondent's statement did not include notice to petitioner of his opportunity to request a hearing within 30 days of receipt of the statement to contest the withholding of the deposit. Respondent returned \$891.94 of the deposit to petitioner.

7. On March 28, 2022, petitioner filed a request for hearing before this Board disputing the withholding of his deposit. The basis of petitioner's request was that respondent did not return the deposit with an itemized statement within 14 days of the date he vacated the apartment.

### **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 landlord discovers that the tenant vacated or abandoned the 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. 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).

11. A tenant may object to the withholding of the deposit and request a hearing before this Board for a review of the reasonableness of the owner's deductions. Minimum Housing Code Sec. 18-120(e). The tenant's request must be submitted in writing within 30 days of receipt of the notice of the opportunity to request a hearing or, in the absence of such notice, within 44 days of the date the tenant vacated the rental unit. Minimum Housing Code Sec. 18-120(e). Petitioner did not receive notice of his opportunity to request a hearing. Consequently, he was required to file his request for hearing within 44 days of the date he vacated the apartment.

12. Petitioner filed his request on March 28, 2022. The vacate date was in dispute. Petitioner testified he vacated the unit on January 15 although he left some belongings in the

apartment. Respondent testified that on January 25 she discovered petitioner had moved out of the unit. Even if the Board uses January 25 as the vacate date, petitioner was required to file his request for hearing no later than March 10, 2022. As petitioner did not file his request for hearing on time, the Board does not have jurisdiction to hear the case.

13. While the Board must dismiss the case due to the untimely filing of petitioner's request for hearing, the Board reminds respondent of her obligation to provide proper notice of the withholding of a deposit to a tenant. That is, 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. Had petitioner filed his request for hearing on time, it is likely the Board would have found that respondent forfeited the deposit as the notice requirements were not met.

### **Order**

Accordingly, it is hereby ORDERED:

14. Petitioner Alex Reid's request for relief is DENIED for lack of jurisdiction due to petitioner's untimely filing of his request.

DATED at Burlington, Vermont this 5<sup>th</sup> day of May, 2022.

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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.

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara  
Josh O'Hara

/s/ Betsy McGavisk  
Betsy McGavisk

/s/ Charlie Gliserman  
Charlie Gliserman

/s/ Olivia Taylor  
Olivia Taylor

/s/ Evan Litwin  
Evan Litwin