



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 8/14/19

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

Josh O’Hara
Board Vice Chair

cc: Max Silverstein
Franzon Holdings LLC

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

**In re: Request for Hearing of MAX)
SILVERSTEIN and DEREK TAN) CITY OF BURLINGTON
Regarding Withholding of Security) HOUSING BOARD OF REVIEW
Deposit by FRANZON HOLDINGS LLC)
for Rental Unit at 284 Maple St, #1)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on July 15, 2019. Board Vice Chair Josh O’Hara presided. Board Members Patrick Kearney, Patrick Murphy and Olivia Pena were also present. Petitioners Max Silverstein and Derek Tan were present and testified. Olof Franzon testified via telephone conference call as the representative of Respondent Franzon Holdings LLC.

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 Franzon Holdings LLC is the owner of a rental unit, 284 Maple Street, #1, in the City of Burlington which is the subject of these proceedings. Olof Franzon manages the property.
2. Petitioner Max Silverstein moved into the rental unit on August 1, 2017 under the terms of a written lease. The lease was renewed for another year ending on May 25, 2019. Derek Tan moved in on June 1, 2018. Monthly rent was \$1100.00.
3. Petitioners paid a security deposit of \$990.00 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 by May 27, 2019.
5. On June 9, 2019, respondent sent petitioners an email indicating that \$156.00 of the deposit was being withheld for cleaning. The statement of withholding was also mailed to petitioners on June 5, 2019 with a check for \$834.00 representing the return of the deposit minus damages. Interest was not credited to the deposit.

6. Petitioners disputed the deduction of \$156.00 from their deposit for cleaning. Respondent hired Lime Maids to clean in the apartment; the invoice from Lime Maids is not itemized, but Olof Franzon believed 2 cleaners spent 1-2 hours cleaning. Mr. Franzon did not believe the apartment was cleaned well enough (for instance, there was a spot of urine at the base of the bathroom toilet) so he hired Lime Maids to clean the apartment. Petitioners argued that any cleaning respondent had done was part of normal wear and tear. In addition, petitioners disputed the charge of \$156.00 because the price they saw online for Lime Maids was \$106.00. Olof Franzon testified that \$109.00 was the charge for basic cleaning, but because Lime Maids cleaned some appliances the charge was \$156.00.

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). Timely notice was provided.

10. Based on the evidence, the Board concludes the deduction of \$156.00 for cleaning was not reasonable as some of the cleaning done by Lime Maids, specifically, the basic cleaning, was part of normal wear and tear. However, it was reasonable for respondent to withhold \$47.00 (the charge for cleaning beyond a basic cleaning) as that charge represents cleaning beyond normal wear and tear.

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 Max Silverstein and Derek Tan are entitled to recover from respondent Franzon Holdings LLC the following amounts:


a) \$109.00 of the principal amount of the security deposit improperly withheld after June 8, 2019;

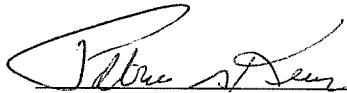
b) Interest in the amount of \$4.58 on the entire deposit for the period August 1, 2017 through June 8, 2019; and

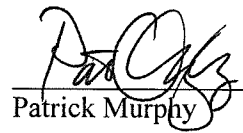
c) Additional interest of \$0.0007 per day from June 9, 2019 until such date as the amount improperly withheld is returned to petitioners.

DATED at Burlington, Vermont this 14th day of August, 2019.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Josh O'Hara


Patrick Kearney


Patrick Murphy


Olivia Pena