



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 4/20/16

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

  
\_\_\_\_\_  
Ben Traverse  
Board Chair

cc: Maana Mohamed  
King St Neighborhood Properties LLC

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

**In re: Request for Hearing of MAANA )  
MOHAMED Regarding Withholding of ) CITY OF BURLINGTON  
Security Deposit by KING STREET ) HOUSING BOARD OF REVIEW  
NEIGHBORHOOD PROPERTIES LLC )  
for Rental Unit at 73B King Street )**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

The above-named hearing came before the Housing Board of Review on January 4, 2016. Board Chair Ben Traverse presided. Board Members Kirstin Daigle, Jason L'Ecuyer and Patrick Kearney were also present. Petitioner Maana Mohamed was present and testified. Binti Neganow served as interpreter for petitioner. Respondent King Street Neighborhood Properties LLC was represented by Janet Dion who 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 King Street Neighborhood Properties LLC is the owner of a rental unit, 73B King Street, in the City of Burlington which is the subject of these proceedings. Janet Dion from Burlington Housing Authority manages the property.
2. Petitioner Maana Mohamed and her family moved into the rental unit on November 25, 2009 under the terms of a written lease.
3. Petitioner paid a security deposit of \$272.00 and a pet deposit of \$100.00 to respondent. Petitioner was to receive back her security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner vacated the apartment on October 5, 2015.
5. On October 15, 2015, Janet Dion sent a letter, by certified mail, to petitioner's forwarding address indicating that the entire deposit was being withheld because damages in the apartment exceeded

the amount of the deposit. No damages were itemized in the letter; rather, the letter indicated that a statement of account would be sent “shortly after 10/19/2015, or sooner if possible.” Janet Dion explained that the damages were not itemized because the estimates to repair the damages were not finalized. The letter did not include notice to petitioner of her right to appeal the withholding of the deposit to this Board.

6. On October 26, 2015, Janet Dion sent a statement, by certified mail, to petitioner itemizing deductions from the deposit. The statement itemized damages of \$3,761.00. Interest in the amount of \$2.74 was credited to the deposit. The statement included notice of the right to request a hearing before this Board to dispute the withholding of 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 mailed to the tenant’s last-known address. 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 sent a letter within 14 days indicating the entire deposit was being withheld, but provided no itemization of damages being claimed; in addition, the letter did not provide petitioner with notice of her appeal rights. A statement itemizing the damages and notice of petitioner's right to appeal were not sent until 21 days after petitioner vacated the apartment. Therefore, the Board concludes respondent forfeited the right to withhold any part of the deposit.

### **ORDER**

Accordingly, it is hereby ORDERED:

11. Petitioner Maana Mohamed is entitled to recover from respondent King Street Neighborhood Properties LLC the following amounts:

a) \$374.74, the principal amount of the deposit plus interest improperly withheld after October 19, 2015; and

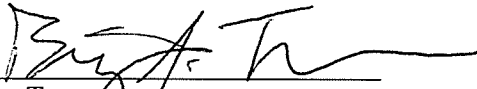
b) Additional interest of \$0.003 per day from October 20, 2015 until such date as the amount improperly withheld is returned to petitioner.

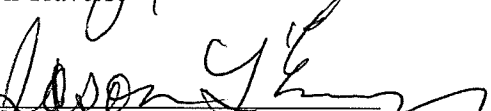
DATED at Burlington, Vermont this 20<sup>th</sup> day of January, 2016.

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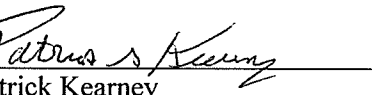
<sup>1</sup> An amendment to Sec. 18-120(c) removing the "certified mail" requirement took effect on January 7, 2015.

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