



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

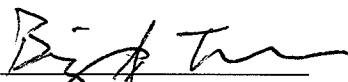
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 11/16/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Ben Traverse
Board Chair

cc: Ryan Beliveau & Jess Buchanan
985 Associates LTD

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

**In re: Request for Hearing of RYAN)
BELIVEAU & JESSICA BUCHANAN)
Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by 985 ASSOCIATES) HOUSING BOARD OF REVIEW
LTD for Rental Unit at 42 Little Eagle)
Bay)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on November 2, 2015. For purposes of expedition, Board Members Kirstin Daigle and Patrick Kearney were appointed as Hearing Officers to hear and decide the above-referenced matter. Petitioner Jessica Buchanan was present and testified. Respondent 985 Associates LTD was represented at the hearing by Patricia Preseault and Holly Hammond.

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 985 Associates LTD is the owner of a rental unit, 42 Little Eagle Bay, in the City of Burlington which is the subject of these proceedings. Holly Hammond manages the property.
2. Petitioners Ryan Beliveau and Jessica Buchanan moved into the rental unit on November 1, 2010 under the terms of a written lease.
3. Petitioners paid a security deposit of \$1005.00 to respondent. Petitioners were to receive back their security deposit at the end of the tenancy minus any amounts withheld for damages.
4. Petitioners vacated the apartment on July 27, 2015.
5. On August 4, 2015, respondent sent a written to statement to petitioners' forwarding address in conformance with ordinance requirements. Said statement itemized deductions totaling \$400.07. The amount of the deposit returned to petitioners was \$758.19.
6. Interest in the amount of \$3.26 was credited to the deposit.

7. Both parties testified concerning painting in the apartment which appeared as a \$323.25 deduction on the written statement. Respondent repainted the apartment because of damage to the walls. There were holes in the walls and damage to the drywall that needed to be repaired and repainted. In addition, there was smoke damage on the walls. Some drywall was damaged when petitioners pulled a surge protector off of the wall after a short circuit in the building in June, 2015. The cost to repaint the apartment was \$646.50, but respondent only deducted half of the cost from petitioner's deposit. The apartment had been painted 4 months prior to the date petitioners moved into the unit.

8. Other deductions indicated in the written statement were not contested.

CONCLUSIONS OF LAW

9. 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.

10. 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.

11. 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. 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 and proper notice was provided.

12. Based on the evidence, the Hearing Officers conclude that given petitioners lived in the apartment for almost 5 years, a reasonable deduction for painting attributable to damage beyond normal wear and tear is \$161.63.

ORDER

Accordingly, it is hereby ORDERED:

13. Petitioners Ryan Beliveau and Jessica Buchanan are entitled to recover from respondents 985 Associates LTD the following amounts:

a) \$161.62 of the principal amount of the security deposit improperly withheld after August 10, 2015; and

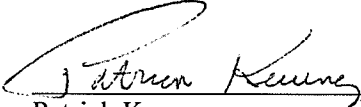
b) Additional interest of \$0.001 per day from August 11, 2015 until such date as the amount improperly withheld is returned to petitioners.

DATED at Burlington, Vermont this 16th day of November, 2015.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Kirstin Daigle
Hearing Officer



Patrick Kearney
Hearing Officer