



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

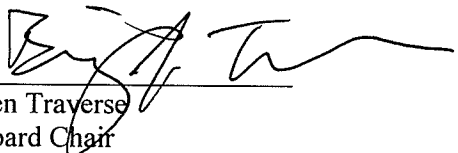
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 3/24/17

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse
Board Chair

cc: Erin Blaisdell
Matthew Kahler

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

**In re: Request for Hearing of ERIN)
BLAISDELL Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by MATTHEW KAHLER) HOUSING BOARD OF REVIEW
for Rental Unit at 326 Flynn Avenue)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on March 8, 2017. Board Chair Ben Traverse presided. Board Members Patrick Kearney, Steven Goodkind and Josh O'Hara were also present. Petitioner Erin Blaisdell was present and testified. Appearing and testifying as a witness on behalf of petitioner was Sam Weiss. Respondent Matthew Kahler, although notified of the hearing and the opportunity to be heard, was not present.

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 Matthew Kahler was the owner of a rental unit, 326 Flynn Avenue, in the City of Burlington which is the subject of these proceedings. Respondent sold the property on February 13, 2017.
2. Petitioner Erin Blaisdell moved into the rental unit on February 1, 2015 under a lease which ran from September 1, 2014 to September 1, 2015. Monthly rent was \$2,000.00. There were 2 other tenants in the house, Walter Gustafson and Sam Weiss.
3. Petitioner paid a security deposit of \$1,000.00 to respondent. Petitioner was to receive back her security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner and her roommate, Sam Weiss, vacated the apartment on December 31, 2016. At the beginning of December, 2016, petitioner and Mr. Weiss informed respondent of their move-out date. Walter Gustafson had already moved out of the house sometime in May, 2016.

5. On January 12, 2017, respondent sent petitioner a written statement in conformance with ordinance requirements. Said statement itemized deductions totaling \$3,200.00: \$3,000 for unpaid rent and \$200 for trash and food left in the house.

6. Petitioner disputed the deduction for unpaid rent. Walter Gustafson moved out of the house in May, 2016 and instructed respondent to use his deposit toward his share of the rent for June, July and August. Petitioner requested a new lease, to begin September 1, 2016, to sign, but respondent informed her the lease was now month-to-month. Respondent also informed petitioner that he planned on selling the house; as a result of his plans, respondent told petitioner he would cover the third roommate's rent. Respondent sold the house on February 13, 2017.

7. Interest in the amount of \$6.00 was credited to the deposit.

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 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). Proper notice was provided.

11. Based on the evidence, the Board concludes it was not reasonable to withhold \$3,000.00 for unpaid rent. The landlord did not appear at the hearing to contest petitioner's argument that this deduction was unreasonable.

ORDER

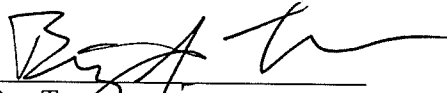
Accordingly, it is hereby ORDERED:

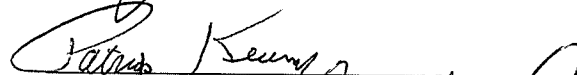
12. Petitioner Erin Blaisdell is entitled to recover from respondent Matthew Kahler the following amounts:

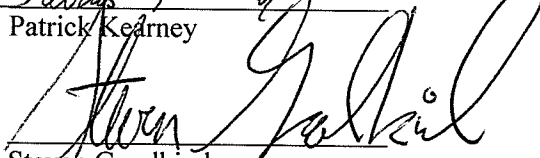
- a) \$800.00 of the principal amount of the deposit withheld after January 14, 2017; and
- b) Additional interest of \$0.005 per day from January 15, 2017 until such date as the amount improperly withheld is returned to petitioner.

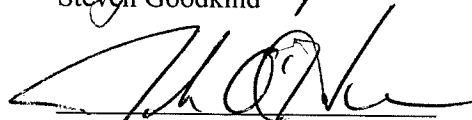
Dated at Burlington, Vermont this 24th of March, 2017.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse


Patrick Kearney


Steven Goodkind


Josh O'Hara