



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 10/7/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Kirstin Daigle
Board Chair

cc: Daniel Coffrin (on behalf of all tenants)
CDM Realty LLC

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

**In re: Request for Hearing of DANIEL)
COFFRIN, JOSH RIEMER, MIKE)
JUDKINS, RANDY MASSEY, ANDREAS)
SCHWARTZ, GARRETT MILNER, KEVIN) CITY OF BURLINGTON
McELROY and DANNY BAKER) HOUSING BOARD OF REVIEW
Regarding Withholding of)
Security Deposit by CDM REALTY LLC)
for Rental Unit at 114 N. Willard Street,))
Apartment 1 and 2)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on September 21, 2015. Board Chair Kirstin Daigle presided. Board Members Jason L'Ecuyer, Patrick Kearney and Ben Traverse were also present. Petitioner Daniel Coffrin was present and testified. Respondent CDM Realty LLC was represented at the hearing by Diane Dolliver and Carol Brown. Also appearing and testifying as a witness was James Coffrin.

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 CDM Realty LLC is the owner of a rental unit, 114 N. Willard Street, Apartment 1 and 2, in the City of Burlington which is the subject of these proceedings.
2. Petitioners Daniel Coffrin, Josh Riemer, Mike Judkins, Randy Massey, Andreas Schwartz, Garrett Milner, Kevin McElroy and Danny Baker moved into the rental unit with a lease which ran from June 1, 2014 to May 26, 2015. Daniel Coffrin appeared on behalf of all the petitioners.
3. Petitioners paid a security deposit of \$2900.00 per apartment to respondent; each tenant paid a deposit of \$725.00 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 on May 26, 2015.

5. On June 11, 2015, respondent returned a portion of the deposit to each tenant with a list of itemized deductions: \$524.28 to Daniel Coffrin, \$524.27 to Daniel Baker, \$418.03 to Randy Massey, \$418.04 to Josh Riemer, \$411.80 to Andreas Schwartz, \$411.81 to Mike Judkins, \$518.04 to Garrett Milner and \$541.14 to Kevin McElroy. The statement did not include notice of the tenants' opportunity to request a hearing before this Board to dispute the deductions.

6. Interest was not credited to 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 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). Here, the notice was sent outside the 14-day period and did not otherwise inform the tenants of their right to appeal to this Board.

10. 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

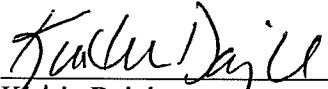
Accordingly, it is hereby ORDERED:

11. Petitioners are entitled to recover from respondent CDM Realty LLC the following amounts:

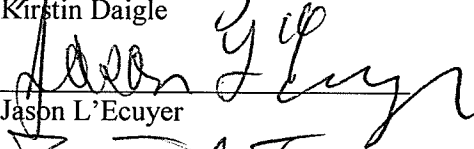
- a) Daniel Coffrin - \$202.50 (security deposit and interest) plus additional interest of \$0.001 per day from June 10, 2015 until such date as the amount improperly withheld is returned to him;
- b) Randy Massey - \$308.75 (security deposit and interest) plus additional interest of \$0.002 per day from June 10, 2015 until such date as the amount improperly withheld is returned to him;
- c) Josh Riemer - \$308.74 (security deposit and interest) plus additional interest of \$0.002 per day from June 10, 2015 until such date as the amount improperly withheld is returned to him;
- d) Andreas Schwartz - \$314.98 (security deposit and interest) plus additional interest of \$0.002 per day from June 10, 2015 until such date as the amount improperly withheld is returned to him;
- e) Michael Judkins - \$314.97 (security deposit and interest) plus additional interest of \$0.002 per day from June 10, 2015 until such date as the amount improperly withheld is returned to him;
- f) Daniel Baker - \$202.51 (security deposit and interest) plus additional interest of \$0.001 per day from June 10, 2015 until such date as the amount improperly withheld is returned to him;
- g) Garrett Milner - \$208.74 (security deposit and interest) plus additional interest of \$0.001 per day from June 10, 2015 until such date as the amount improperly withheld is returned to him; and
- h) Kevin McElroy - \$185.64 (security deposit and interest) plus additional interest of \$0.001 per day from June 10, 2015 until such date as the amount improperly withheld is returned to him.

DATED at Burlington, Vermont this 7th day of October, 2015.

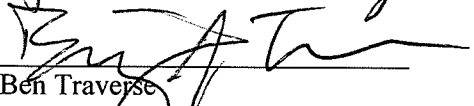
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