



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 4/15/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Kifstin Daigle
Board Chair

cc: Patrick Dougherty and Christopher Miller
Chris Mason

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

**In re: Request for Hearing of PATRICK)
DOUGHERTY and CHRISTOPHER)
MILLER Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by CHRIS MASON) HOUSING BOARD OF REVIEW
for Rental Unit at 37 Decatur St, #2)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on March 16, 2015. Board Chair Kirstin Daigle presided. Board Members Loyal Ploof, Jason L'Ecuyer, Patrick Kearney and Ben Traverse were also present. Petitioners Patrick Dougherty and Christopher Miller were present and testified. Respondent Chris Mason was present and 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 Chris Mason is the owner of a rental unit, 37 Decatur Street, #2, in the City of Burlington which is the subject of these proceedings.
2. Petitioners Patrick Dougherty and Christopher Miller moved into the rental unit on April 1, 2013.
3. Petitioners paid a security deposit of \$1100.00 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 February 1, 2015.
5. On February 14, 2015, respondent sent a written statement to petitioners' forwarding address, by certified mail, in conformance with ordinance requirements. Said statement itemized deductions totaling \$1,655.03. Interest in the amount of \$2.36 was credited to the deposit.
6. Both parties testified concerning deductions made for the carpeting which totaled \$1,060.03 (after credits for depreciation and for the stairs). The carpets in the unit were replaced in 2010. The cost

to replace the carpet was depreciated based on a life expectancy of 10 years for the carpet. The carpets had been professionally cleaned when petitioners moved into the unit and the carpets were in good shape. At the end of the tenancy there were 2 long rips in the carpet and it reeked of urine; respondent attributed this damage to petitioners' dog. In addition, there were numerous stains and cigarette burns in the carpet. Petitioners do not dispute that their dog caused some damage, and that they are responsible for bleach stains and cigarette burns on the carpet. However, they did not believe the carpet reeked of dog urine when they moved out.

7. Other deductions indicated in the written statement were not disputed.

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 mailed to the last-known address of the tenant. 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 sent.

11. The landlord's deduction for depreciation value of the carpet was based on a 10-year amortization period. That period is too long. Regardless of the damage, the carpets would have required replacement well before the passage of one decade. The Board agrees that but for the damage admitted to by the tenants, the carpets had a bit more life in them. However, the landlord should have credited the tenants an additional \$600 in depreciation value. Consequently, the Board concludes a reasonable deduction for the carpet is \$460.03.

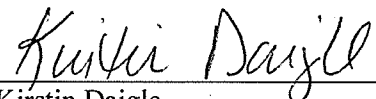
ORDER

Accordingly, it is hereby ORDERED:

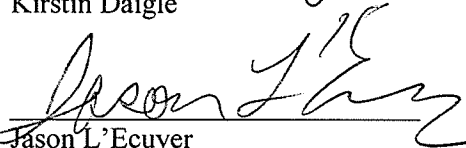
12. Petitioners Patrick Dougherty and Christopher Miller are entitled to recover from respondent Chris Mason \$37.33 of the principal amount of the security deposit improperly withheld after February 15, 2015.

DATED at Burlington, Vermont this 15th day of April, 2015.

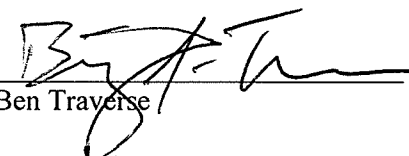
CITY OF BURLINGTON
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Kirstin Daigle

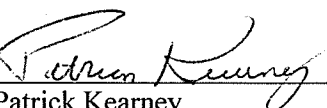


Jason L'Ecuyer



Ben Traverse

Loyal Ploof



Patrick Kearney