



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

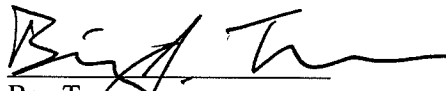
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 6/7/16

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse
Board Chair

cc: Makayla Narushof
15 Plattsburgh LLC

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

In re: Request for Hearing of MAKAYLA)
NARUSHOF Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by 15 PLATTSBURGH) HOUSING BOARD OF REVIEW
LLC for Rental Unit at 15 Plattsburgh)
Avenue, Unit A)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on May 16, 2016. Board Chair Ben Traverse presided. Board Members Kirstin Daigle, Jason L’Ecuyer and Patrick Kearney were also present. Petitioner Makayla Narushof was present and testified. Respondent 15 Plattsburgh LLC, although notified of the hearing and the opportunity to be heard, was not present. Also present was Ginger Santor.

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 15 Plattsburgh LLC is the owner of a rental unit, 15 Plattsburgh Avenue, Unit A, in the City of Burlington which is the subject of these proceedings.
2. Petitioner signed a lease for the term April 15, 2016 to May 31, 2017 with the understanding that respondent would fix the shower by the time petitioner was to move into the apartment.
3. Petitioner paid a security deposit of \$900.00.
4. On April 15, 2016, petitioner went to the apartment with the expectation that she would be moving into it. Instead, petitioner found the shower had not been fixed and told respondent’s agent she would not move into the apartment. Respondent’s agent informed petitioner it was too expensive to fix the shower, but asked her to think about her decision over the weekend and let him know on the following Monday, April 18. On April 18, petitioner, again, told respondent’s agent she could not move into the apartment unless the shower was fixed. Petitioner never moved into the apartment.

5. Respondent did not return petitioner's deposit nor did he send her a written statement itemizing deductions from the deposit.

CONCLUSIONS OF LAW

6. 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.

7. 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.

8. 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 mailed or hand-delivered to 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). Respondent did not return the deposit and did not provide a written statement itemizing any deductions from the deposit. Therefore, the Board concludes respondent forfeited the right to withhold any part of the deposit.

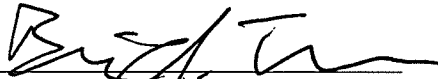
ORDER

Accordingly, it is hereby ORDERED:

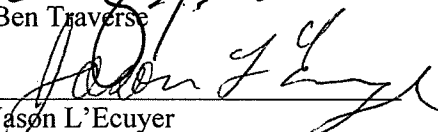
9. Petitioner Makayla Narushof is entitled to recover \$900.00 from respondent 15 Plattsburgh LLC.

DATED at Burlington, Vermont this 7th day of June, 2016.

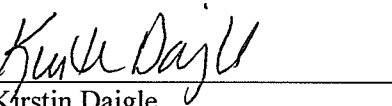
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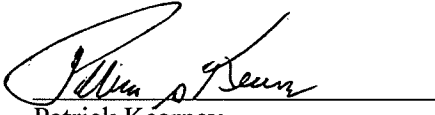
Ben Traverse



Jason L'Ecuyer



Kirstin Daigle



Patrick Kearney