



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

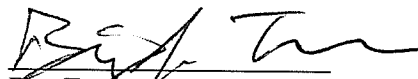
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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: Randy Raymond
Terry Stone

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

**In re: Request for Hearing of RANDY)
RAYMOND Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by TERRY STONE) HOUSING BOARD OF REVIEW
for Rental Unit at 35 Hayward St, Apt B)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on October 19, 2015. Board Chair Ben Traverse presided. Board Members Loyal Ploof, Kirstin Daigle, Jason L'Ecuyer and Patrick Kearney were also present. Petitioner Randy Raymond was present and testified. Respondent Terry Stone was also present and testified. Appearing and testifying as witnesses were Eric Friend, Kristine Stone and Jerry Thomas.

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 Terry Stone is the owner of a rental unit, 35 Hayward Street, Apt. B, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Randy Raymond moved into the rental unit in 2005. Petitioner paid a security deposit of \$600.00 to respondent. Petitioner was to receive back his security deposit at the end of the tenancy minus any amounts withheld for damages.
3. Petitioner vacated the apartment on May 31, 2015.
4. On June 12, 2015, respondent sent a statement, by certified mail, to petitioner informing him that the security deposit was being withheld for damages. Petitioner was notified by the post office that he had mail to pick up; however, petitioner did not pick up respondent's letter until July 10, 2015. Respondent's statement included notice of petitioner's right to request a hearing before this Board.

5. Petitioner filed his request for hearing on July 31, 2015. Respondent argued that petitioner did not file his request on time, and therefore, the Board should not hear the case. Petitioner countered that he filed his request within 30 days of receipt of respondent's statement.

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. A tenant, upon receiving notice of the landlord's intent to withhold the deposit, may object and request a hearing before the Burlington Housing Board of Review for a review of the reasonableness of the owner's deductions. Minimum Housing Code Sec. 18-120(e). The request shall be submitted in writing by the tenant within 30 days of receipt of notice of the opportunity to request a hearing or, in the absence of such notice, within 44 days of the date the tenant vacated the apartment. Minimum Housing Code Sec. 18-120(e).

9. Respondent argued that petitioner's request for hearing was not filed on time, and thus, the Board should not hear the case. The Board agrees. Respondent sent notice of the withholding of the deposit on June 12, 2015. Petitioner was notified by the post office that he had mail from respondent, but waited almost a month to pick it up. Subsequently, petitioner filed his request for hearing on July 31, 2015. Petitioner argues that his request was filed on time because it was filed within 30 days of receipt of respondent's statement. The Board disagrees. Petitioner had 44 days to file his request for hearing. In

the absence of receiving notice from a landlord within the 14-day period, a tenant has 44 days to file a request for hearing. Petitioner did not receive notice within the 14-day period (as a result of his failure to pick up his mail) so he had 44 days from the date he moved out to file his request. To interpret the ordinance any other way would mean that a tenant could extend his filing deadline by deliberately neglecting to pick up his mail. The Board concludes this was not the intent of the ordinance.

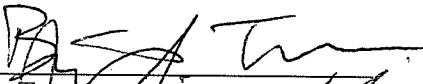
ORDER

Accordingly, it is hereby ORDERED:

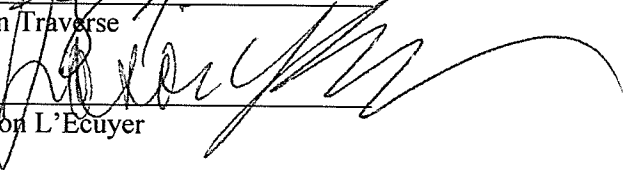
10. Petitioner Randy Raymond's request for relief is DENIED as his request for hearing was not filed in a timely manner.

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

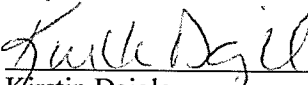
CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Ben Traverse

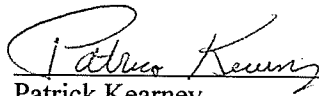


Jason L'Ecuyer



Kirstin Daigle

Loyal Ploof



Patrick Kearney