



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

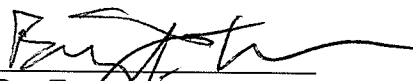
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 12/8/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Travers
Board Chair

cc: Valerie Russell & Stephen Sharp
Christopher Kranz

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

**In re: Request for Hearing of VALERIE)
RUSSELL and STEPHEN SHARP)
Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by CHRISTOPHER) HOUSING BOARD OF REVIEW
KRANZ for Rental Unit at 107 Killarney)
Drive)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on November 16, 2015. Board Chair Ben Traverse presided. Board Members Jason L'Ecuyer and Patrick Kearney were also present. Petitioners Valerie Russell and Stephen Sharp were present and testified. Respondent Christopher Kranz was also 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 Christopher Kranz is the owner of a rental unit, 107 Killarney Drive, in the City of Burlington which is the subject of these proceedings.
2. Petitioners Valerie Russell and Stephen Sharp were tenants under a written lease which ran from September 1, 2014 through August 31, 2015.
3. Petitioners paid a security deposit of \$2390.00 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 August 31, 2015.
5. On September 14, 2015, respondent sent a written statement, by certified mail, to petitioners. Said statement itemized deductions totaling \$1074.00. The amount of the security deposit returned to petitioners was \$1316.00. Respondent's statement did not include notice of petitioner's right to request a hearing before this Board to dispute the withholding of the deposit.
6. Interest was not credited to petitioners' 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 mailed to the tenant's forwarding address. 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).

10. A landlord who decides to retain all or part of a security deposit must comply with the specific requirements of the ordinance: the deposit must be returned within 14 days of the date the tenant vacated or abandoned the rental unit with a written statement itemizing any deductions; the statement must contain notice of the tenant's right to appeal to the Housing Board of Review; and the statement must be hand-delivered or mailed to the tenant's forwarding address. See *Lieberman v. Circe*, No. S21-13 Cncv (Crawford, J., March 27, 2013) and Minimum Housing Code Sec. 18-120(c). The Vermont Supreme Court required the literal enforcement of these requirements in *In re Soon Kwon*, 189 Vt 598 (2011). Accordingly, a landlord who fails to meet all of these requirements forfeits the security deposit.

In this case, respondent failed to comply with the notice requirements by failing to inform petitioners of their appeal rights. Therefore, the Board concludes respondent forfeited the right to withhold any part of the deposit.

11. 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

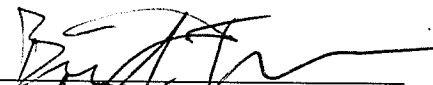
Accordingly, it is hereby ORDERED:

12. Petitioners Valerie Russell and Stephen Sharp are entitled to recover from respondent Christopher Kranz the following amounts:


- a) \$1074.00 of the principal amount of the security deposit improperly withheld after September 14, 2015;
- b) Interest in the amount of \$6.18 on the entire deposit for the period September 1, 2014 to September 14, 2015; and
- c) Additional interest of \$0.007 per day from September 15, 2015 until such date as the amount improperly withheld is returned to petitioners.

DATED at Burlington, Vermont this 8th day of December, 2015.

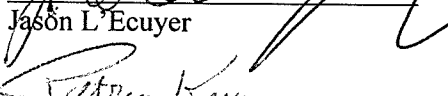
CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Ben Travers



Jason L. Ecuier



Patrick Kearney