



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**

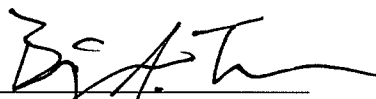
Enclosed is a copy of the “Findings of Fact, Conclusions of Law and Order” of the Burlington Housing Board of Review.

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 7/18/17

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

  
\_\_\_\_\_  
Ben Traverse  
Board Chair

cc: Sharmion Selman  
Janet Dion for Burlington Housing Authority

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

**In re: Request for Hearing of SHARMION )  
SELMAN Regarding Withholding of ) CITY OF BURLINGTON  
Security Deposit by BURLINGTON ) HOUSING BOARD OF REVIEW  
HOUSING AUTHORITY for Rental Unit )  
At 243 Church Street, #8 )**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

The above-named hearing came before the Housing Board of Review on June 5, 2017. Board Chair Ben Traverse presided. Board Members Patrick Kearney, Steven Goodkind, Alec Bauer and Josh O'Hara were also present. Petitioner Sharmion Selman was present and testified. Respondent Burlington Housing Authority was represented at the hearing by Janet Dion. Also appearing and testifying as witnesses were Sceronne Selman and Suelan Kasongo.

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 Burlington Housing Authority ("BHA") is the owner of a rental unit, 243 Church Street, #8, in the City of Burlington which is the subject of these proceedings. Janet Dion is the Director of Property Management for BHA.

2. Petitioner Sharmion Selman moved into the rental unit on or about March 1, 2007. Petitioner paid a security deposit of \$223.00 to respondent. Petitioner was to receive back her security deposit at the end of the lease minus any amounts withheld for damages.

3. Petitioner vacated the apartment on April 30, 2017.

4. On May 11, 2017, respondent sent a written statement to petitioner's forwarding address in conformance with ordinance requirements. Said statement itemized deductions totaling \$635.00. Interest in the amount of \$10.78 was credited to the deposit.

5. Both parties testified with respect to the replacement of the living room carpet which appeared as a \$460.00 deduction on the itemized statement. Respondent replaced the living room carpet due to stains on it. The carpet was new when petitioner moved into the apartment approximately 10 years ago. Petitioner acknowledged there was one spot in front of her couch that was stained; she tried to clean it, but the stain would not come up. Petitioner disputed that the entire carpet was stained.

6. Both parties testified with regard to painting a wall behind the stove which appeared as a \$40.00 deduction on the itemized statement. The wall behind the stove had built up grease on it; the wall was cleaned and then painted. When petitioner cleaned behind the stove, the paint came off the wall so she stopped cleaning it. Janet Dion indicated that BHA has no set policy on how often a unit is painted; units are painted as needed.

7. Other deductions from the deposit 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 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). Proper notice was provided.

11. Based on the evidence, the Board concludes that the deductions for the living room carpet and cleaning/painting the wall behind the stove were not reasonable. Petitioner lived in the apartment for approximately 10 years. There was no evidence that petitioner did not take care of the apartment while she lived there. Painting in the apartment and the need for a new carpet after 10 years of occupancy is part of normal wear and tear.

**ORDER**

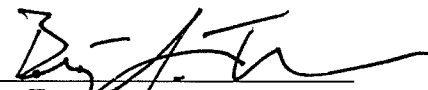
Accordingly, it is hereby ORDERED:

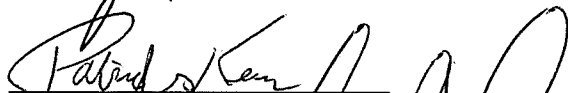
12. Petitioner Sharmion Selman is entitled to recover from respondent Burlington Housing Authority the following amounts:


- a) \$98.78 of the principal amount of the security deposit improperly withheld after May 14, 2017; and
- b) Additional interest of \$0.001 per day from May 15, 2017 until such date as the amount improperly withheld is returned to petitioner.

Dated at Burlington, Vermont this 18<sup>th</sup> of July, 2017.

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

  
\_\_\_\_\_  
Ben Traverse

  
\_\_\_\_\_  
Patrick Kearney

  
\_\_\_\_\_  
Steven Goodkind



Alec Bauer



Josh O'Hara