



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

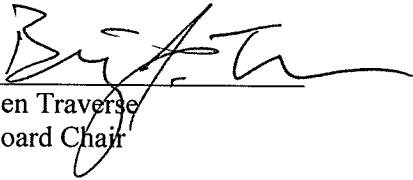
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 9/9/17

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse
Board Chair

cc: Nate Senghas
Megalaur Sisters LLC

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

**In re: Request for Hearing of Robert)
Lawrance, Nathan Senghas, Marcus)
Wadlington and Joseph Taft) CITY OF BURLINGTON
Regarding Withholding of) HOUSING BOARD OF REVIEW
Security Deposit by Megalaur Sisters)
LLC for Rental Unit at 7A Bradley St.)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on August 21, 2017. Board Members Josh O’Hara and Patrick Kearney were appointed Hearing Officers to hear and decide the above-referenced matter pursuant to ordinance provisions. Petitioners Robert Lawrance, Joseph Taft, Marcus Wadlington and Nathan Senghas were present and testified. Respondent Megalaur Sisters LLC was represented at the hearing by Eric Hanley who testified.

Upon consideration of the evidence and the applicable law, the Hearing Officers make the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Respondent Megalaur Sisters LLC is the owner of a rental unit, 7A Bradley Street, in the City of Burlington which is the subject of these proceedings. Eric Hanley manages the property.
2. Petitioners moved into the rental unit with a lease which ran from June 1, 2016 to May 25, 2017. Monthly rent was \$3400.00.
3. Petitioners paid a security deposit of \$3400.00 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 May 25, 2017.
5. On June 7, 2017, respondent sent a statement to petitioner Nate Senghas (the tenant designated to receive the return of the security deposit) in accordance with ordinance requirements. Said statement itemized deductions totaling \$702.50. Interest in the amount of \$6.50 was credited to the deposit. Respondent returned \$2704 of the deposit to petitioners.

6. Respondent deducted \$360.00 from the deposit for carpet cleaning. The lease required the tenants to have the carpets professionally cleaned upon vacating the apartment. Petitioners did not have the carpets cleaned because they were not stained, damaged or otherwise in need of cleaning. Petitioners argued the deduction should not be allowed because having the carpet cleaned between tenants in a unit is part of normal wear and tear for which they were not liable. Eric Hanley pointed to the lease provision stating the cost to clean the carpets would be deducted from the deposit if the tenants did not them cleaned themselves.

7. Respondent deducted \$100.00 for touch-up paint. Petitioners touched up a few spots on the walls in the basement where the paint had chipped off, but otherwise there was no painting that was required.

8. Other deductions taken from the deposit were not disputed.

CONCLUSIONS OF LAW

9. 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.

10. 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.

11. 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). Timely notice was provided.

12. Based on the evidence, the Hearing Officers conclude that the deductions for carpet cleaning and touch-up paint were not proper. There was no evidence that the touch-up painting was anything more than normal wear and tear. Similarly, carpet cleaning (absent stains attributable to a tenant(s)) between tenancies is part of normal wear and tear; consequently, it was not proper to withhold part of the security deposit for carpet cleaning.

ORDER

Accordingly, it is hereby ORDERED:

13. Petitioner Nate Senghas (as the representative for all the tenants) is entitled to recover from respondent Megalaur Sisters LLC the following amounts:

a) \$460.00 of the principal amount of the security deposit improperly withheld after June 8, 2017; and

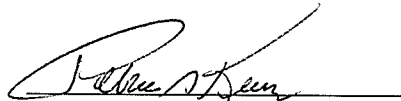
b) Additional interest of \$0.003 per day from June 9, 2017 until such date as the amount improperly withheld is returned to petitioners.

Dated at Burlington, Vermont this 9th of September, 2017.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Josh O'Hara
Hearing Officer



Patrick Kearney
Hearing Officer