



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

4/5/18

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse
Board Chair

cc: Thomas Wheeler
William Baker
Peter Amour

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

In re: Request for Hearing of THOMAS)
WHEELER Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by PETER AMOUR and) HOUSING BOARD OF REVIEW
WILLIAM BAKER for Rental Unit at 52)
N. Winooski Avenue, Apt. 2)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on March 19, 2018. Board Chair Ben Traverse presided. Board Members Patrick Kearney, Josh O’Hara and Steven Goodkind were also present. Petitioner Thomas Wheeler was present and testified. Respondents Peter Amour and William Baker were also present and testified.

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. Respondents Peter Amour and William Baker are the owners of a rental unit, 52 N. Winooski Avenue, Apt. 2, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Thomas Wheeler moved into the rental unit on October 1, 2017 under the terms of a 3-month lease.
3. Petitioner paid a security deposit of \$975.00 to respondents. Petitioner was to receive back his security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner vacated the apartment on December 28, 2017.
5. Respondent William Baker sent a statement to petitioner, within 14 days of the date he vacated the apartment, informing him that \$410.00 of the deposit was being withheld. The statement did not inform petitioner of his opportunity to request a hearing before this Board to dispute the withholding of the deposit.
6. Interest was not credited to the deposit.

7. On February 28, 2018, petitioner filed a request for hearing related to the withholding of his deposit.

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).

11. A tenant, upon receiving notice of the landlord's intent to withhold any part of the deposit, may object and request a hearing before the housing board of review. Minimum Housing Code Sec. 18-120(e). The request must be submitted in writing 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 rental unit. Minimum Housing Code Sec. 18-120(e). In this instance, petitioner did not receive notice of his right to request a hearing before this Board; consequently, he had 44 days from the date he vacated the

apartment to file his request for hearing, or until February 10, 2018. Petitioner filed his request on February 28, 2018. The Board concludes petitioner did not file his request for hearing on time, and thus, we do not have jurisdiction to hear the case.¹

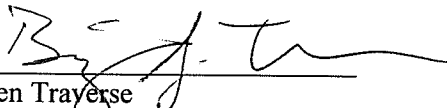
ORDER

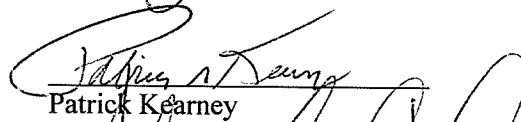
Accordingly, it is hereby ORDERED:

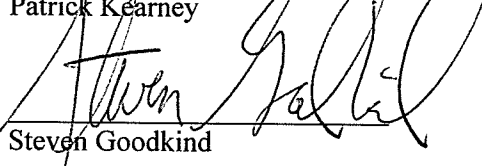
12. Petitioner Thomas Wheeler's request is DISMISSED for failure to file a timely request for hearing.

Dated at Burlington, Vermont this 5th day of April, 2018.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Travers


Patrick Kearney


Steven Goodkind


Josh O'Hara

¹ The periods of limitations set forth under Minimum Housing Code Sec. 18-120(e) apply only to requesting hearings before the Board. This order should not be construed as precluding petitioner from electing to still seek relief through the Small Claims Court.