



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 10/2/18

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

Josh O’Hara
Board Vice Chair

cc: Melanie Thompson
Alexander Wolff, c/o Chelsea Harris

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

In re: Request for Hearing of MELANIE)
THOMPSON Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by ALEXANDER) HOUSING BOARD OF REVIEW
WOLFF for Rental Unit at 56 Bright St)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on September 17, 2018. Board Vice Chair Josh O'Hara presided. Board Members Ben Traverse, Patrick Kearney, and Steven Goodkind were also present. Petitioner Melanie Thompson was present and testified. Respondent Alexander Wolff was represented at the hearing by Chelsea Harris who 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. Respondent Alexander Wolff is the owner of a rental unit, 56 Bright Street, in the City of Burlington which is the subject of these proceedings. Chelsea Harris manages the property.
2. Petitioner Melanie Thompson moved into the rental unit on or about May 1, 2017 with a lease which ran from May 1, 2017 to April 28, 2018; petitioner moved into the unit with Benson Roush. Monthly rent was \$1,000.00.
3. Petitioner paid a security deposit of \$1250.00 to respondent. Petitioner and Benson Roush were to receive back their security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner stopped living in the apartment in October, 2017 when she and Benson Roush broke up, but she left furniture there and kept a key to the apartment; petitioner did not inform respondent that she was no longer living in the apartment. On April 30, 2018 she removed all her belongings and left her keys with Mr. Roush. Petitioner expected the deposit to be returned shortly after April 30; petitioner tried

to contact Benson Roush about the deposit, but he was not returning her calls. Unbeknownst to her, Mr. Roush had signed an addendum to the lease whereby it was extended to May 24, 2019.

5. On June 4, 2018, petitioner contacted Chelsea Harris about the deposit. Ms. Harris informed petitioner that the lease was extended by Benson Roush and the deposit would not be returned until he vacated the apartment.

6. On July 13, 2018, petitioner filed a request for hearing before this Board to dispute the withholding of her 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).

10. A tenant who wants to dispute the withholding of a deposit before this Board must submit a written request 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 or abandoned the rental unit. Minimum Housing Code Sec. 18-120(e). Petitioner surrendered possession of the apartment (she moved all her belongings out of it and returned the keys to Benson Roush) on April 30, 2018. The deposit was

not returned and she did not receive notice that it was being withheld. As petitioner did not receive a written statement from respondent, or 30-day notice of the opportunity to request a hearing before the Board, the applicable period of limitations to request a hearing is extended to 44 days after the date the tenant vacated the rental unit. Minimum Housing Code Sec. 18-120(e). Consequently, petitioner had 44 days from the date she vacated the apartment to file her request for hearing, or until June 13, 2018. Petitioner filed her request on July 13, 2018. The Board concludes petitioner did not file her request for hearing on time, and thus, we do not have jurisdiction to hear the case.¹

ORDER


Accordingly, it is hereby ORDERED:


11. Petitioner Melanie Thompson's request is DISMISSED for failure to file a timely request for hearing.

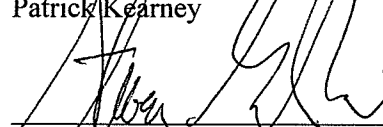
Dated at Burlington, Vermont this 2nd day of October, 2018.

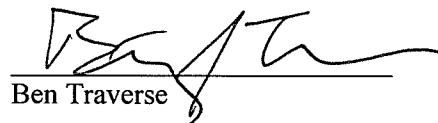
CITY OF BURLINGTON

HOUSING BOARD OF REVIEW


Josh O'Hara


Patrick Kearney


Steven Goodkind


Ben Traverse

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.