

BURLINGTON HOUSING BOARD OF REVIEW

Monday, March 11, 2024

6:30 p.m.

**** REMOTE and IN PERSON****

645 Pine Street, Front Conference Room OR

Remotely via Zoom:

<https://zoom.us/j/93182788075>

Minutes

Board members present: Betsy McGavisk, Evan Litwin, Lisa Gerlach, Olivia Taylor and Josh Wronski

Staff present: Lisa Jones and Erik Ramakrishnan

1. Saera Fernandez (tenant); Tatiana Repnikova (landlord) (security deposit case) re: 216 Lake St, Apt. 201 (postponed from meeting of 2/5/24)
Present were Saera Fernandez (remote) and Tatiana Repnikova (in person). Both parties were sworn in. Both parties presented their evidence and testimony. The hearing was closed.
2. Jeremy Fleming (tenant); Sisters & Brothers Investment Group (landlord) (security deposit case) re: 248 College St, Apt. 5 (rehearing)
Neither party was present. Both parties informed the Board by email that they would not be attending the hearing in light of the landlord's representation that a check was being sent to the tenant via certified mail for the return of the entire deposit, plus interest and double damages. The Board discusses whether or not to issue an order since the tenant did not withdraw his request for hearing – he just stated he was foregoing the hearing in light of the landlord's representation that a check was being mailed. At the landlord's request, this hearing was a new hearing to give the landlord an opportunity to present their case; testimony was taken from the tenant at the original hearing on 2/5/24. The Board discusses the pros and cons of issuing an order. Attorney Ramakrishnan suggested the Board could continue their deliberations for 1-2 weeks to give the tenant time to receive and deposit the check. Lisa Gerlach moves that the Board close the hearing and continue their deliberations in a couple of weeks (until their meeting of 3/25). Olivia Taylor seconds. The Board votes unanimously to close the hearing and continue their deliberations in this case.
3. Board business: mailing of hearing notices
Evan Litwin brings this matter to the Board for consideration. He introduces this topic as being an opportunity to make operational improvements to the Board's mailing of notices and agendas for cases. He believes the Board's current practice allows for too many cases to be rescheduled on the basis that a party did not receive notice of the hearing; his impression is that parties often claim not to have received notice which almost always ends in rehearing the case. Rehearing a case can be traumatizing for the person, it takes additional time, the tenant has to wait longer and it is a waste of resources. The Board has no way of knowing whether a notice is received. He

would like to have some sort of procedure for sending notices. He states he is open to a lot, but he is not open to keeping things as is.

Lisa Gerlach asks what the current process is.

Clerk Lisa Jones first states that the problem is not widespread. In the past year, only 2 cases have been rescheduled on the basis that notice was not received; in one case, a tenant failed to update their mailing address with the Board so they did not receive notice of the hearing and in the other case, the landlord claimed not to have received notice. The current process is to send a notice of filing to a landlord when the case is filed unless the hearing is scheduled soon after the request for hearing is filed. Then when the case is scheduled for hearing a notice of hearing and agenda are sent to both parties via US mail at the addresses provided by the applicant; the landlord also receives a copy of the request form filed by the tenant. If the request form doesn't have an address for the landlord, the clerk finds the address from city records, most recently from the apartment registration form that a property owner is required to file, and keep up-to-date, with the city.

Evan Litwin expresses his opinion that he would like to see the parties receive an email and/or phone call informing them of the hearing date.

There is some back and forth between Evan Litwin, Lisa Gerlach, Lisa Jones and Betsy McGavisk about what might work without being overly burdensome. Betsy McGavisk asks what an extra step will mean to the clerk. There is discussion about the notice of filing and notice of hearing both by email. Evan Litwin suggests sending a short email to the parties notifying them of the hearing date with a short statement that information is being sent via US mail. Lisa Gerlach suggests that in some cases a follow-up phone call might be appropriate.

Attorney Ramakrishnan talks about how courts use US mail to notify parties of hearings and that proper mailing creates the presumption of receipt. He suggests that if there is going to be an extra step in the Board's notice process, the Board should adopt a requirement that the burden is on the person requesting a new hearing on the basis that notice was not received to show notice was not received by providing an affidavit to that effect.

Chair McGavisk asks if anyone else has comments they want to make on the issue. Chair McGavisk asks if anyone has a motion to make.

Evan Litwin makes a motion that the Board request that our clerk have a 2 touch point system whereby the first email of notice goes out to the parties to notify them [of filing of case] and that upon the second alert, when the meeting is scheduled, the notice of hearing goes out in 2 methodologies, 1 through US postal service, as is already done, and 1 by email, again, just with either the link or agenda, but having a 2nd touch point via email in the registration file which is the landlord's or property owner's duty to keep up to date with the city.

Chair McGavisk: do we have a second?

Lisa Gerlach seconds the motion.

The Board votes unanimously to adopt this new policy.

Evan Litwin thanks the Board and the clerk for their work on this issue. Evan Litwin suggests that the Board check-in with the clerk this summer to see how the policy is working. Betsy McGavisk suggests checking in before the board gets too busy. Lisa Gerlach states the clerk should feel free to bring up how the policy is working at any time.

Chair McGavisk asks whether anyone has a motion to adjourn.

Lisa Gerlach moves to adjourn the meeting and go into deliberative session.

Olivia Taylor seconds the motion.

The Board votes unanimously to adjourn the meeting and go into its deliberative session.