



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 8/19/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

Kirstin Daigle
Board Chair

cc: Murray Dunsmore
Rick Bove

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

**In re: Request for Hearing of MURRAY)
 DUNSMORE Regarding Withholding of) CITY OF BURLINGTON
 Security Deposit by 253-255 PEARL ST) HOUSING BOARD OF REVIEW
 LLC for Rental Unit at 255 Pearl St, #6)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on August 3, 2015. Board Chair Kirstin Daigle presided. Board Members Loyal Ploof, Jason L'Ecuyer and Patrick Kearney were also present. Petitioner Murray Dunsmore was present and testified. Respondent 253-255 Pearl Street LLC was represented at the hearing by Rick Bove. Also appearing and testifying as witnesses were Madison Wagner and Daniel Holodak.

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 253-255 Pearl St LLC is the owner of a rental unit, 255 Pearl Street, #6, in the City of Burlington which is the subject of these proceedings. Rick Bove manages the property.
2. Petitioner Murray Dunsmore moved into the rental unit on June 1, 2014 under the terms of a written lease. Monthly rent was \$1845.00.
3. Petitioner paid a security deposit of \$1845.00 to respondent. 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 May 31, 2015.
5. On June 13, 2015, Rick Bove sent a written statement, by certified mail, to petitioner in conformance with ordinance requirements. Said statement itemized deductions totaling \$1655.00. Interest in the amount of \$1.85 was credited to the deposit. The amount of the security deposit returned to petitioner was \$191.85.

6. The statement of deductions did not inform petitioner of his right to request a hearing before this Board.

7. Both parties testified regarding the inspection fee which appeared as a \$50.00 deduction on the itemized statement. At the beginning of the tenancy the parties signed a security deposit agreement outlining the tenants' responsibilities at the end of the lease with respect to the return of the security deposit. Under that agreement, petitioners agreed to pay a \$50.00 inspection fee. Rick Bove testified that the charge was for his time to inspect the unit at the end of the tenancy. Petitioners disputed the charge because there was no formal walk-through at the beginning of the tenancy.

8. Both parties testified as to deductions made for cleaning expenses which totaled \$120.00 on the itemized statement. Respondent hired Almighty Peaks Painting to do the cleaning. The stove, refrigerator and bathroom were cleaned by Almighty Peaks; the charges for cleaning were consistent with the charges noted in the security deposit agreement. Petitioners cleaned the apartment before moving out and they left it in better condition than the way in which they received it.

9. Both parties testified regarding cleaning the carpets which appeared as a \$185.00 deduction on the itemized statement. Petitioners did not shampoo the carpets before vacating the apartment. Under the security deposit agreement, tenants are responsible for shampooing the carpets. Respondent hired Almighty Peaks Painting to shampoo the carpets; the cost to clean the carpets was \$185.00.

10. Both parties testified regarding abandoned items which appeared as a \$100.00 deduction on the itemized statement. Respondent needed to dispose of items left on the greenbelt and near the garbage totes. Although petitioner disputed that he left any of his possessions in the apartment, he acknowledged leaving a sofa on the greenbelt.

11. Other deductions indicated in the written statement were not contested.

CONCLUSIONS OF LAW

12. 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.

13. 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.

14. 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 mailed to the last-known address of the tenant. 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.

15. Based on the evidence, the Board concludes the \$50 deduction for an inspection fee and the \$185.00 deduction for carpet cleaning were proper. Petitioner agreed to the \$50 charge when he signed the lease. Similarly, petitioner agreed he would be charged for cleaning the carpets if he failed to do it himself.

16. Based on the evidence, the Board concludes the deductions for cleaning the stove, refrigerator and bathroom were not proper. Petitioner cleaned those items before he moved out leaving them in better condition than they were when he moved into the apartment.

17. Based on the evidence, the Board concludes the deduction for abandoned items was proper and reasonable. Petitioner left a sofa that needed to be removed.

ORDER

Accordingly, it is hereby ORDERED:

18. Petitioner Murray Dunsmore is entitled to recover from respondent 253-255 Pearl St LLC the following amounts:

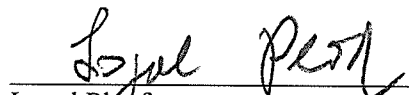
- a) \$120.00 of the principal amount of the security deposit withheld after June 14, 2015; and
- b) Additional interest of \$0.003 per day from June 15, 2015 until such date as the amount improperly withheld is returned to petitioner.

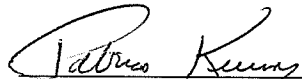
DATED at Burlington, Vermont this 19th day of August, 2015.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Kirstin Daigle


Jason L'Ecuyer


Loyal Ploof


Patrick Kearney



HOUSING BOARD OF REVIEW

City of Burlington

149 Church Street Room 11

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NOTICE OF DECISION

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DATED 8/19/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Kirstin Daigle
Board Chair

cc: William Huston
Rick Bove

**In re: Request for Hearing of WILLIAM)
HUSTON Regarding Withholding of) CITY OF BURLINGTON
Security Deposit by 64-66) HOUSING BOARD OF REVIEW
HUNGERFORD TERR LLC for Rental)
Unit at 66 Hungerford Terrace, #1)**

Upon consideration of the evidence and the applicable law, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

1. Respondent is the owner of a rental unit, 66 Hungerford Terrace, #1, in the City of Burlington which is the subject of these proceedings. Rick Bove manages the property.
2. Petitioner William Huston (and his 3 roommates) moved into the rental unit with a lease which ran from June 1, 2014 to May 31, 2015. Under the terms of the lease monthly rent was \$2700.00.
3. Petitioner and his roommates paid a security deposit of \$2700.00 to respondent. 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 May 31, 2015.
5. On June 13, 2015, Rick Bove sent a written statement, by certified mail, to one of petitioner's roommates in conformance with ordinance requirements. Said statement itemized deductions totaling \$2795.00. Interest in the amount of \$2.70 was credited to the deposit.

6. The statement of deductions did not inform petitioner of his right to request a hearing before this Board.

7. Both parties testified as to deductions made for cleaning expenses which totaled \$220.00 on the itemized statement. Respondent's statement indicated the stove, refrigerator and bathroom needed to be cleaned; in addition, the bedroom carpets needed to be cleaned. Petitioner cleaned the apartment before moving out and he left it in better condition than the way in which he received it. Petitioner scrubbed the floors, vacuumed and cleaned the bathroom, including cleaning the drains. There was no evidence presented by Rick Bove indicating the cleaning was normal wear and tear.

8. Both parties testified with regard to painting one of the bedroom's which totaled \$500.00 on the itemized statement. One of the bedrooms had soot on the ceiling and walls; as a result, the ceiling and walls needed to be washed and binned and painted. The size of the bedroom was approximately 12 feet x 12 feet. There were no invoices or receipts for the work.

9. Other deductions indicated in the written statement were not contested.

CONCLUSIONS OF LAW

10. 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.

11. 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.

12. 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 mailed to the last-known address of the tenant. 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.

13. Based on the evidence, the Board concludes the deductions for cleaning the stove, refrigerator and bathroom were not proper. Petitioner cleaned those items before he moved out leaving them in better condition than when he moved into the apartment. Additionally, the Board concludes the deduction for cleaning the bedroom carpets was not proper; there was no receipts documenting that the carpets were cleaned:

14. Based on the evidence, the Board concludes the deduction for painting was proper. However, absent a receipt for the work that was done, the Board concludes a reasonable deduction for the work is \$350.00.

ORDER

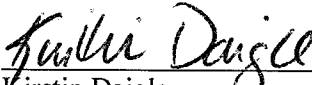
Accordingly, it is hereby ORDERED:

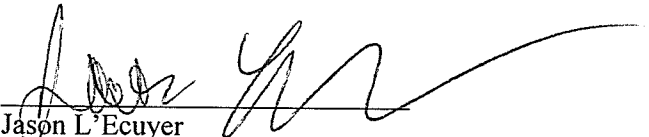
15. Petitioner William Huston is entitled to recover from respondent 64-66 Hungerford Terrace LLC the following amounts:

- a) \$370.00 of the principal amount of the security deposit withheld after June 14, 2015; and
- b) Additional interest of \$0.002 per day from June 15, 2015 until such date as the amount improperly withheld is returned to petitioner.

DATED at Burlington, Vermont this 19th day of August, 2015.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Kirstin Daigle



Jason L'Ecuyer



Loyal Ploof



Patrick Kearney



HOUSING BOARD OF REVIEW

City of Burlington

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**HOUSING BOARD OF REVIEW
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Unless an appeal is taken, the Board's Order should be complied with before expiration of the thirty (30) day period.

DATED 9/3/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Kirstin Daigle
Board Chair

cc: Stephen Maglio
CC Associates

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

**In re: Request for Hearing of STEPHEN)
MAGLIO, SEAN CONSIDINE, ALEX)
IVANCIA, DAVID EISEN, DANA KLASKY,) CITY OF BURLINGTON
RYAN JORY and SOFIE FIERRO) HOUSING BOARD OF REVIEW
Regarding Withholding of Security)
Deposit by CC ASSOCIATES for Rental)
Unit at 11 Hickok Place)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on August 3, 2015. Board Chair Kirstin Daigle presided. Board Members Loyal Ploof, Jason L'Ecuyer and Patrick Kearney were also present. Petitioners Ryan Jory, Alex Ivancia and David Eisen were present and testified. Respondent CC Associates was represented at the hearing by Ginny Kolbenson. Also appearing as witnesses were Paul Kolbenson and Robert Thibault.

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 CC Associates is the owner of a rental unit, 11 Hickok Place, in the City of Burlington which is the subject of these proceedings. Ginny Kolbenson manages the property.
2. Petitioners moved into the rental unit with a lease which ran from June 1, 2014 to May 25, 2015.
3. Petitioners paid a security deposit of \$4200.00 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 22, 2015.
5. On June 3, 2015, respondent sent a written statement, by certified mail, to Stephen Maglio's forwarding address in conformance with ordinance requirements. Said statement itemized deductions totaling \$3628.58. Interest in the amount of \$4.20 was credited to the deposit and there was a credit of

\$547.11 for overpayment of rent in July, 2014. The amount of the security deposit returned to petitioners (through Stephen Maglio) was \$1122.73.

6. Both parties testified concerning the fire extinguisher which appeared as a \$35.00 deduction on the itemized statement. Between each tenancy the fire extinguishers are checked to make sure they are in working condition; generally, the extinguishers are replaced every 2 to 3 years. The extinguisher in the first floor kitchen needed to be replaced because it was dispensed. Petitioners were adamant that they did not use the extinguisher.

7. Both parties testified concerning the 2nd floor kitchen cabinet door which appeared as a \$95.86 deduction on the itemized statement. The cabinet door was broken off the hinges. Petitioners testified the door came off the hinges through no fault of theirs. The door looked as though it had been kicked in. The Board specifically finds the damage occurred during petitioners' tenancy. There were no receipts evidencing the cost to replace the door.

8. Both parties testified concerning painting which appeared as a \$2047.32 deduction on the itemized statement. The interior of the house was painted prior to petitioners' move-in date. At the end of the tenancy, there were stains on the walls, large nails stuck in some walls, and stickers and tape on some walls. Although some walls were spot painted, many walls needed to be repainted. In addition, a hole in the 1st floor bedroom wall needed to be patched and it was necessary to sand off tape residue from a wall. Petitioners acknowledged that some painting was necessary. There were no invoices submitted for the work that was done.

9. Both parties testified concerning the fire-rated, metal door which appeared as a \$750.00 deduction on the itemized statement. The parties gave conflicting evidence as to whether or not the door was there at the beginning of the tenancy – Ginny Kolbenson testified it was while petitioners testified it was not. There was no move-in inspection indicating the condition of the apartment at the beginning of the tenancy. Petitioners submitted a photo date-stamped June 1, 2014 showing there was no door there.

10. Other deductions indicated in the itemized statement were not contested.

CONCLUSIONS OF LAW

11. 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.

12. 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.

13. 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 mailed within 14 days. 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.

14. Based on the evidence, the Board concludes the deductions for the fire extinguisher and for the fire door were not proper. There was insufficient evidence to conclude that petitioners used the fire extinguisher. The fire door was not there at the beginning of the tenancy so it was not proper to charge petitioners for a new fire door.

15. Based on the evidence, the Board concludes a deduction for both the cabinet door and painting were proper as the damage was attributable to petitioners. However, there were no receipts provided for the work done. Consequently, the Board concludes a reasonable deduction for the cabinet door is \$40.00 and a reasonable deduction for painting attributable to petitioners is \$1364.88.

ORDER

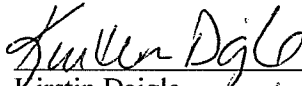
Accordingly, it is hereby ORDERED:

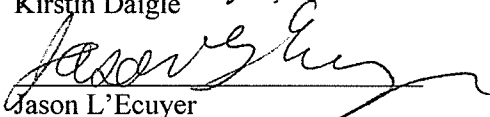
16. Petitioner Stephen Maglio (on behalf of all the tenants) is entitled to recover from respondent CC Associates the following amounts:

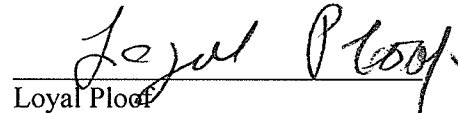
- a) \$1523.30 of the principal amount of the security deposit improperly withheld after June 5, 2015; and
- b) Additional interest of \$0.004 per day from June 6, 2015 until such date as the amount improperly withheld is returned to petitioner.

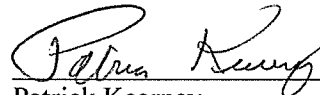
DATED at Burlington, Vermont this 3rd day of September, 2015.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Kirstin Daigle


Jason L'Ecuyer


Loyal Ploof


Patrick Kearney



HOUSING BOARD OF REVIEW

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Unless an appeal is taken, the Board's Order should be complied with before expiration of the thirty (30) day period.

DATED 8/19/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Kirstin Daigle
Board Chair

cc: Geena Moy
Rolf Danielson

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

In re: Request for Hearing of GEENA MOY)
Regarding Withholding of Security) CITY OF BURLINGTON
Deposit by ROLF DANIELSON for) HOUSING BOARD OF REVIEW
Rental Unit at 22 Park Street, #4)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on August 3, 2015. Board Chair Kirstin Daigle presided. Board Members Loyal Ploof, Jason L'Ecuyer and Patrick Kearney were also present. Petitioner Geena Moy was not present but testified by phone. Respondent Rolf Danielson was also present.

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 Rolf Danielson is the owner of a rental unit, 22 Park Street, #4, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Geena Moy moved into the rental unit with a lease which ran from June 1, 2014 to May 31, 2015.
3. Petitioner paid a security deposit of \$1800.00 to respondent. Petitioner was to receive back her security deposit at the end of the lease minus any amounts withheld for damages.
4. On June 6, 2015, respondent sent a written statement to petitioner's forwarding address, by certified mail, in conformance with ordinance requirements. Said statement itemized deductions totaling \$1550.00. Interest in the amount of \$30 was credited to the deposit. The amount of the security deposit returned to petitioner was \$280.00.
5. Both parties testified as to cleaning the apartment which appeared as a \$300.00 deduction (6 hours at \$50/hour) on the itemized statement. The charge was for cleaning the floors, baseboards, walls, doors, rug, appliances and cabinets, and for scrubbing the floors. Petitioner disputed the charge based on

her belief that her entire deposit would be returned pursuant to an “early move-out agreement” between her and respondent. Under that agreement, signed by both parties on May 1, 2015, respondent agreed to return the entire deposit provided: the apartment was vacated, and all belongings were removed from the property, by the end of the day on May 26, 2015; rent was paid by May 5; and the apartment was fully cleaned and left “in the condition found at move-in (including, but not limited to, washing any dirt or debris from all surfaces including floors, countertops, walls, baseboards, banisters, etc.; fully cleaning all appliances inside and out, cleaning cabinets inside and out, full cleaning bathroom).” Additionally, the agreement provides that if the apartment is not fully cleaned, the cost to clean the apartment will be deducted from the security deposit at an hourly rate of \$50.00. The apartment was not fully cleaned.

6. Both parties testified with respect to resurfacing the floors which appeared as a \$900.00 deduction on the itemized statement. It was necessary for respondent to resurface the floors as a result of damage caused by petitioner’s pet pig: the apartment reeked of pet odor and there was evidence that the pig had urinated on the hardwood floor. The only way to repair the damage to the floors was to resurface them. Respondent made it clear to petitioner when he granted her permission (albeit with some reservations) to have a pet pig that she would be responsible for any and all damage caused by her pig.

7. Other deductions indicated in the written statement were not contested.

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 mailed to the tenant's last known address. 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.

11. Based on the evidence, that Board concludes the deductions for cleaning (\$300.00) and for resurfacing the floors (\$900.00) was reasonable as the damage was attributable to petitioner and was beyond normal wear and tear.

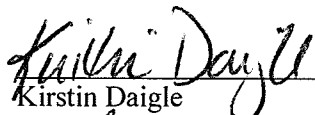
ORDER

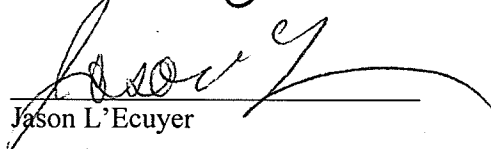
Accordingly, it is hereby ORDERED:

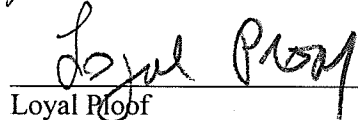
12. Petitioner Geena Moy's request for relief is DENIED.

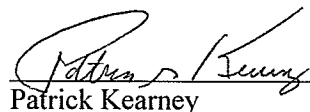
DATED at Burlington, Vermont this 19th day of August, 2015.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Kirstin Daigle


Jason L'Ecuier


Loyal Ploof


Patrick Kearney