

BURLINGTON HOUSING BOARD OF REVIEW

Monday, June 7, 2021

7:00 p.m.

The meeting will be entirely remote and virtual. You can join the meeting via Zoom:

Please click the link below to join the webinar:

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Webinar ID: 842 0011 1409

International numbers available: <https://us02web.zoom.us/u/kehilyxT2o>

AGENDA

1. Shirley Logan (tenant); Pearl Street Housing Venture (landlord) (security deposit case) re: 90 Pearl Street, Apt. 205

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.

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AMENDED AGENDA

1. Shirley Logan (tenant); Pearl Street Housing Venture (landlord) (security deposit case) re: 90 Pearl Street, Apt. 205
2. Julio Desmont (tenant); Sisters & Brothers Investment Group (landlord) (security deposit case) re: 371 Pearl Street, Apt.

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BURLINGTON HOUSING BOARD OF REVIEW

Monday, June 7, 2021

7:00 p.m.

The meeting will be entirely remote and virtual.

Minutes

Board Members present: Josh O'Hara, Betsy McGavisk, Charlie Gliserman, Olivia Pena

Staff present: Lisa Jones

1. Shirley Logan (tenant); Pearl Street Housing Venture (landlord) (security deposit case) re: 90 Pearl Street, Apt. 205
Present were: Shirley Logan, Rick Bove, Deb McCaffrey, Sarah Dopp, Rev. Karen Mendes, Georgia Rosenberg, Ken Bridges.
All parties were sworn in. The Board took evidence and testimony from all parties. Hearing concluded.

2. Julio Desmont (tenant); Sisters & Brothers Investment Group (landlord) (security deposit case) re: 371 Pearl Street, Apt.
Present was Julio Desmont who was sworn in. No one appeared for the landlord. The Board took evidence and testimony from Julio Desmont. Hearing concluded.

Meeting was adjourned at approximately 7:50pm at which time the Board deliberated in private.

**CITY OF BURLINGTON, VERMONT
HOUSING BOARD OF REVIEW**

**In re: Request for Hearing of SHIRLEY LOGAN)
Regarding Withholding of Security)
Deposit by PEARL STREET HOUSING) Security Deposit Appeal
VENTURE for Rental Unit at 90 Pearl)
Street, Apt. 205)**

DECISION AND ORDER

The above-named hearing came before the Housing Board of Review on June 7, 2021; the hearing was held virtually via Zoom. Board Chair Josh O'Hara presided. Board Members Betsy McGavisk, Olivia Pena and Charlie Gliserman were also present. Petitioner Shirley Logan was present and testified. Respondent Pearl Street Housing Venture was represented at the hearing by Rick Bove and Deb McCaffrey, both of whom testified. Also appearing and testifying as witnesses were Sarah Dopp, Rev. Karen Mendes, Georgia Rosenberg and Ken Bridges.

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 Pearl Street Housing Venture is the owner of a rental unit, 90 Pearl Street, Apt. 205, in the City of Burlington which is the subject of these proceedings. Rick Bove and Deb McCaffrey manage the property.
2. Petitioner Shirley Logan moved into the rental unit on February 1, 2019 under the terms of a written lease. Monthly rent was \$1089.00.
3. Petitioner paid a security deposit of \$1,089.00 to respondent. Petitioner was to receive back her security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner vacated the apartment on March 31, 2021.
5. On April 5, 2021, respondent sent petitioner a statement of deductions from the

security deposit in accordance with ordinance requirements. Said statement itemized deductions totaling \$980.00. Respondent returned \$111.17 of the deposit to petitioner. Petitioner disputed all the deductions.

6. Interest in the amount of \$2.17 was credited to the deposit.

7. Both parties testified with respect to the replacement of 2 mini blinds which appeared as a \$30 deduction on the itemized statement. Deb McCaffrey testified the blinds were broken and needed to be replaced; the damage occurred during petitioner's tenancy. Petitioner testified the blinds were broken after the windows covering them were repaired by respondent.

8. Both parties testified with respect to cleaning which appeared as a \$100 deduction on the itemized statement. Rick Bove and Deb McCaffrey testified that their cleaners spent 8 hours cleaning the apartment which consisted of general cleaning, washing floors, cleaning the oven and refrigerator and cleaning the baseboards; respondent only deducted 4 hours of cleaning from the deposit. Petitioner testified she cleaned everything before she moved out. Sarah Dopp witnessed petitioner doing a lot of cleaning before she moved out; she saw petitioner sweeping and vacuuming, and cleaning the kitchen sink, refrigerator and counters. Ms. Dopp believed petitioner left the apartment in good order. Ken Bridges, petitioner's current property manager, attested to how clean and well-kept petitioner keeps her apartment. Photos submitted by respondent indicate the oven door and one of the refrigerator shelves needed some additional cleaning.

9. Both parties testified with respect to the replacement of the carpet which appeared as an \$850.00 deduction on the itemized statement. Deb McCaffrey testified that the carpet was in terrible condition when petitioner moved out of the apartment; she described the stains as being excessive and in the middle of the carpet. According to Deb McCaffrey, the carpet could not be

cleaned and needed to be replaced. The cost to replace the carpet was \$850.21. Petitioner testified the carpets were not damaged by her. However, petitioner testified she did not shampoo the carpets because one of respondent's workers told her a new carpet was being installed in the apartment. Rick Bove and Deb McCaffrey testified there were no plans to replace the carpet. The carpet was not new when petitioner moved into the unit, but neither Mr. Bove nor Ms. McCaffrey knew the age of the carpet. Sarah Dopp described the carpet as clean, but used. Karen Mendes saw the carpet when petitioner moved into the unit and described it as fine, but not fancy. Georgia Rosenberg testified that the carpet looked like stretched canvas, not carpeting; Ms. Rosenberg stated there was no pad under the carpet. The photos of the carpet submitted by Rick Bove do not show excessive stains; there are what look to be pulls in the carpet material.

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). Proper notice was provided.

13. Based on the evidence and testimony, the Board concludes the deductions for the mini blinds and carpet were not proper. The damage to the blinds was not attributable to petitioner; the damage occurred when respondent had the windows fixed. With respect to the carpet, the Board concludes it was not damaged by petitioner; the carpet was worn as a result of normal wear and tear.

14. Based on the evidence and testimony, the Board concludes a reasonable deduction for cleaning was \$25.00. Petitioner cleaned the apartment before she moved out, but the oven door and one shelf of the refrigerator needed additional cleaning.

Order

Accordingly, it is hereby ORDERED:

15. Petitioner Shirley Logan is entitled to recover from respondent Pearl Street Housing Venture the following amounts:

a) \$955.00 of the principal amount of the security deposit improperly withheld after April 14, 2021; and

b) Additional interest of \$0.006 per day from April 15, 2021 until such date as the amount improperly withheld is returned to petitioner.

DATED at Burlington, Vermont this 14th day of July, 2021.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara
Josh O'Hara

/s/ Charlie Gliserman
Charlie Gliserman

/s/ Betsy McGavisk
Betsy McGavisk

**CITY OF BURLINGTON, VERMONT
HOUSING BOARD OF REVIEW**

**In re: Request for Hearing of JULIO DESMONT)
Regarding Withholding of Security)
Deposit by SISTERS & BROTHERS) Security Deposit Appeal
INVESTMENT GROUP for Rental Unit at)
371 Pearl Street, Apt. 9)**

DECISION AND ORDER

The above-named hearing came before the Housing Board of Review on June 7, 2021; the hearing was held virtually via Zoom. Board Chair Josh O'Hara presided. Board Members Betsy McGavisk, Olivia Pena and Charlie Gliserman were also present. Petitioner Julio Desmont was present and testified. Respondent Sisters and Brothers Investment Group, although notified of the hearing and the opportunity to be heard, was not 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 Sisters and Brothers Investment Group is the owner of a rental unit, 371 Pearl Street, Apt. 9, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Julio Desmont moved into the rental unit on June 18, 2018 under the terms of a month-to-month lease.
3. Petitioner paid a security deposit of \$1,400.00¹ 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 April 30, 2021.

¹ The request form petitioner filled out indicated the amount of the deposit was \$1403.50. The written lease indicates petitioner paid a deposit of \$1400.00. The Board believes the difference of \$3.50 is the amount of interest respondent credited to the deposit.

5. Respondent withheld \$625.00 of the security deposit. Petitioner did not provide a copy of the itemized list of damages sent by respondent; consequently, the Board does not know whether or not all the notice requirements were met. Petitioner disputed the withholding of the deposit, arguing that the money withheld was for pre-existing damages. Petitioner stated that the damages existed when he moved into the apartment. There was no testimony to the contrary.

Conclusions of Law

6. 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.

7. 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.

8. 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 to the last-known address of the tenant, which may be the address of the rental unit if no forwarding address is provided. 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).

9. Petitioner disputed the withholding of his deposit. Respondent did not appear at the hearing to explain the deductions. Therefore, the Board concludes that the deductions were not reasonable as the damages were pre-existing.

Order

Accordingly, it is hereby ORDERED:

10. Petitioner Julio Desmont is entitled to recover from respondent Sisters and Brothers Investment Group the following amounts:

- a) \$625.00 of the principal amount of the security deposit improperly withheld after May 14, 2021; and
- b) Additional interest of \$0.004 per day from May 15, 2021 until such date as the amount improperly withheld is returned to petitioner.

DATED at Burlington, Vermont this 14th day of July, 2021.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara
Josh O'Hara

/s/ Charlie Gliserman
Charlie Gliserman

/s/ Betsy McGavisk
Betsy McGavisk