

**MINUTES OF THE CALDWELL RENT REVIEW BOARD**  
**January 15, 2020**

**OATH OF OFFICE:**

Joseph Kostecka

Meeting called to order **7:03PM**

**ROLL CALL**

**PRESENT:** Councilman Gates, Ms. Evans, Mr. Galante, Mr. Linden & Mr. Kostecka

**Absent:** Mr. Valente

**ALSO PRESENT:** Mr. McGowen, Esq.

**STATEMENT OF COMPLIANCE**

**Pledge of Allegiance**

**ELECTION OF OFFICERS:**

Mr. Galante nominated Ms. Evans as Vice-Chairman of the Rent Review Board, seconded by Mr. Linden. All in favor.

Ms. Evans nominated Mr. Galante as Chairman of the Rent Review Board, seconded by Mr. Linden. All in favor.

**MINUTES:**

**November 20, 2019**

Minutes of the Rent Review Board meeting accepted and approved.  
Mr. Kostecka abstained.

**NEW BUSINESS:**

Complaint from Crystal Martucci, 319 Bloomfield Avenue, Apt. D, Caldwell, NJ

Ms. Martucci gave her statement.

The rent was increased more than 2.75%. The new owner took over on June, 2018. They made a request for an additional \$273.32 which brought her security to \$2,262.82. The law states that security should not exceed more than 1 ½ months' rent. Right now she pays \$1,398.88 which is the current, she overpays by \$162.48. The security that she paid originally was \$1,987.50 and then additional security was requested.

Mr. Galante asked how far back are we allowed to hear a complaint if we choose to

hear the complaint. Mr. McGowen responded that section 182-10 subsection 1 in the ordinance it states that "A complaint must be filed within basically 12 month period following the first violation." In subsection 2 "Notwithstanding the provisions of this subsection to the contrary, the twelve-month jurisdictional limitation shall not bar the filing and hearing by the Rent Review Board of complaints by tenants against landlords who have not obtained then current rent licenses pursuant to 182-7 of this chapter."

Ms. Martucci explained that the building is 100 years old and eventually things will break and as a new owner he is responsible to fix them. On 2/1/2019 her bath tub had a leak and she could not use it. On 2/5/2019 the plumber was sent to do a temporary fix but I was told I needed to wait 48 hours to use it. On 2/9/2019 she notified the owner that it was still leaking and the super turned the water off. On 2/14/2019 contractors began to work and the owner offered a new bathroom. On 3/5/2019 the toilet and sink were installed and they worked. On 3/8/2019 the shower knob was reinstalled because it was just freezing water. That was 36 days without a bathroom and she wrote an email asking for \$400.00 off the rent and he said no because she agreed to use another bathroom in another apartment. Ms. Martucci showed a picture of the other bathroom which if she saw before then she would not have agreed.

Ms. Martucci read a letter from the landlord in reference to air conditioners not being allowed to be installed on windows facing Bloomfield Avenue. There is no Borough ordinance stating that window units cannot be installed on Bloomfield Avenue side. Mr. McGowen asked if during that time was there any air conditioning in your apartment and she responded yes, in the kitchen and her son's bedroom. Ms. Martucci's bedroom and living room are on Bloomfield Avenue side.

Ms. Martucci stated that Mark Guiliano came out to the building because there was no heat for about a month. Mr. Galante asked if during that month that the heat was out was it being ignored or was it being worked on and Ms. Martucci responded that she thinks that it was being worked on but she was still without heat for the month.

Mr. Galante responded that there are certain remedies that they can do and there are certain responsibilities you have as a tenant according to the lease. Some of those things like the door, floor, and hole in the tub should be brought to the landlord's attention immediately.

Mr. Galante read a section in the lease "Landlord repairs: The Landlord shall make any necessary repairs and replacements to the vital facilities serving the property, such as the heating, plumbing and electrical systems, within a reasonable time after notice by the Tenant. The tenant may be liable for the cost of such repairs and replacements pursuant to Section 15. The Landlord shall not be liable for interruption of services or inconvenience resulting from delays in making repairs or replacements if due to circumstances beyond Landlord's reasonable control". The key word is reasonable even though it took a long time repairs in a 100 year old building sometimes come with complications and it's not do to any negligence that he can tell by the landlord for those situations.

Ms. Martucci continued that she was without a bathroom for 36 days and all she asked for was \$420.00 off of the rent. Mr. Galante responded that the reduction would be between

you and the landlord and if the landlord decided to give that to you it would be up to the landlord.

Ms. Evans asked if there were any State inspections while you have been in this apartment they usually inspect every five years. Ms. Martucci responded that she remembers seeing an inspector a good while ago but nothing since.

Ms. Martucci responded that her mailbox is broken and she now needs to pick up her mail at the post office. Her son's school will not send mail to a P.O. Box.

M & N 206, Manuel Munoz  
Mr. Munoz gave a statement.

- He was contacted by Ms. Martucci stating she had a leak in her toilet.
- He offered the bathroom that was four feet from the door of her apartment.
- His contractor will testify that it was not 36 days that she was without a bathroom.
- There was a problem with the heat. There is one boiler for two buildings. One of the buildings was getting heat and the side at 319 Bloomfield Avenue was not getting heat.
- The apartment below her, which has just been remodeled, was damaged because they would close the radiators which released water into the air and upstairs.

Mr. Munoz's attorney responded in regards to the heat, the building was purchased on June 12, 2018 and the closing was done by his firm and this problem occurred in October, 2019 it was not in the dead of winter.

Mr. Linden responded within the complaint which we received is the rent, lack of the bathroom and the air conditioning issue because that's what is in the complaint. Any issue beyond that in his opinion is beyond the scope tonight. He is not saying that you cannot raise the subject at another time but those items were on the original complaint.

Mr. McGowen advised the Board that you are the Rent Control Board and he reads Powers and Duties of the Board "The Board is hereby granted and shall have and exercise, in addition to other powers herein expressly granted, all the powers necessary and appropriate to carry out and execute the purpose of this chapter, including and not limited to the following: To issue and promulgate such rules and regulations as it deems necessary to implement the purposes of this chapter, the chapter is entitled Rent Control that goes on a little more; to supply information and assistance to landlords and tenants to help them comply with the provision of this chapter. To review complaints from tenants alleging noncompliance and answers from landlords in response to such tenants, as hereinafter provided, and to make a determination based upon such complaints and answers. To review applications from landlords for capital improvements surcharges, increased service surcharges and additional rental increases as hereinafter provided. To hold and conduct hearings, to annually review the provisions of this chapter. On its own initiative or on the complaint of any tenant moving into vacancy increased housing space as provided and referred to in 182-2 of this chapter and to impose monetary penalties or impose other relief set forth in 182-18". His point is that you are the Rent Control Board and you're not the arbiter of complaints or issues that arise over conditions of buildings as such.

Councilman Gates asked Mr. Munoz a question; he believes Ms. Martucci stated that the register rent is different than the rent that was actually in the lease. When you purchased the building were you given the form that states what each apartment is charged and registered with the Borough and Mr. Munoz responded no.

Councilman Gates asked Ms. Martucci when she found out that the registered rent was different than what was in your lease. Ms. Martucci responded that her lawyer found out.

Mr. Galante responded the rent was raised from \$1361.44 to \$1398.88, was that the only increase since you have had the building. Mr. Munoz responded that is the only increase.

Mr. Munoz attorney responded that the only least they had was for \$1361.44 which was given to Mr. Munoz at the closing. Right now Ms. Martucci hasn't signed a lease since 2017 and she is on a month to month lease. The state statute allows 1 ½ months' rent maximum for security. If the security happened to be in excessive of what is legal they have no problem refunding the security it may be within \$90.00.

Mr. Galante asked if the lease that is dated July 31, 2017 is the lease that was provided in the closing documents. Mr. Munoz and his attorney responded yes.

Ms. Martucci has not signed another lease since July 31, 2017.

Mr. McGowen advised the Board that the first thing they need to do is decide whether the rent increase is permissible because the amount of the rent is going to affect the amount of permissible security deposit.

Mr. McGowen is not finding any information in the ordinance that indicates the landlord must report the current rent to the Borough.

Mr. Galante responded that he can't locate in the ordinance anything on the 1 ½ months security deposit is that just a state law and Mr. McGowen responded yes. Mr. McGowen continued that this is not in your jurisdiction. What you can do is advice that under the state law it requires security deposit of a 1 ½ month's maximum.

Mr. McGowen responded that Maintenance of Service is in the ordinance but he thinks it is important that the Board understands exactly what that says. "Despite anything contained in this chapter to the contrary, the landlord shall maintain the same standard of service and maintenance and shall supply furniture, furnishings and equipment in the housing space, dwelling and associated grounds as the landlord provided or was required to provide by law or lease as of the date the tenancy was created". So if there has been a reduction in services that was previously provided under the law or under the lease that would be grounds for this Board to implement a reduction in the rent. He doesn't think that amenities and things that are needed in an apartment that are temporarily down due to a repair would qualify as a reduction.

Mr. Galante responded that the only thing that he can see that would qualify for a reduction is the mailbox and possibly the air conditioning based on further examination. Mr. McGowen responded that you would need to look at is the mailbox and air conditioning required by law or lease.

Mr. Linden asked Counsel if we can hear from Mr. Munoz regarding the air conditioner issue.

Mr. Munoz testified that the insurance company did send him a recommendation that all the air conditioning units be held with brackets. A letter was sent to his tenants in the winter and asked that all air conditioners be removed with the help of the super and he purchased the brackets and gave that to them and installed it for free.

Ms. Evans responded so you're suggesting that the tenant put in the air conditioners that go into a wall and Mr. Munoz responded no they are units that stand alone inside the apartment.

Mr. Linden asked how much the units cost and Mr. Munoz responded they can range from \$40.00 to \$450.00 up to \$3,000.00.

Mr. McGowen responded that he thinks this is a contractual issue meaning it should be governed by the lease. If a new lease was signed and it stated that you are not permitted to have air conditioning units on Bloomfield Avenue then the tenant would have to abide by it. Presuming there is nothing like that in the lease I don't believe that the landlord can just decide not to allow tenants to have air conditioning units on Bloomfield Avenue. That being said again, I see this as a contractual issue and not a reduction of services and I don't think this is in our jurisdiction of the Rent Board. It doesn't have to do with rent or reduction of services that the landlord was providing. The argument could be made that previously the landlord was permitting it and then not permitting it would be a reduction of services but subsection states "as the landlord provided or was required to provide by law or lease as of the date the tenancy was created".

Mr. Galante responded that there is no current lease to look at and Mr. McGowen responded when a lease becomes month to month you look back at the terms. When a lease becomes month to month that document doesn't become null and void those terms in that lease document carry forward govern the month to month lease.

Ms. Evans asked Ms. Martucci if she objected to the kind of air conditioning that Mr. Munoz suggested and she purchased it but was against it because it seemed crazy that a 100 year old building that she lives in will look nicer without an air conditioner on Bloomfield Avenue. She purchased air conditioners at Home Depot for \$340.00 each and they are terrible and they hardly work.

A complaint was filed in superior court in Newark for the air conditioning issue and is scheduled for January 31<sup>st</sup>.

Mr. Galante responded that the information of the signed last lease under section 16 "No alterations or installations of equipment" letter (d) "install or change the electrical, plumbing, heating or air cooling system". Mr. McGowen responded that his definition of a window air conditioner is not a permanent installation.

Mr. Munoz responded to Ms. Evans question about the inspections. The building was inspected when he took over and the only apartment that was not inspected was Ms. Martucci's apartment.

Mr. Galante responded that there are additional items that would be discussed in front of a different body the three major issues that were discussed in the complaint he doesn't see any remedy that this Board can provide to this situation.

Mr. Gates responded that the one thing that concerns him is that the previous landlord was registering the rent under one thing but had a lease with a different amount. Mr. McGowen responded that he doesn't see anything in the ordinance that requires the rent amount to be provided in the rent license form.

Mr. McGowen read the requirements according to the ordinance to register an apartment.

Mr. Galante made a motion that after examining parts of the complaint involving the security deposit, complaint for lack of bathroom, Air Conditioning not permitted to be installed on Bloomfield Avenue side and illegal rental increases beyond the permissible 2.75% this Board finds no perceivable remedy and therefore the motion is to dismiss the complaint, seconded by Mr. Kostecka.

Ms. Evans     yes  
Mr. Galante   yes  
Mr. Kostecka  yes  
Mr. Linden     yes

Approved 4-0

Mr. Galante advised the Board that at the last meeting there were recommendations on the ordinance to the Council and he does have information but was waiting on Ms. O'Neill who was providing information to the Board. We can table this until the meeting in March.

Mr. Galante made motion to adjourn meeting at 8:45p.m., seconded by Mr. Kostecka.  
All in favor.