



## **Dispute Resolution Services**

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

### **DECISION**

#### **Dispute Codes** MNSD

#### **Introduction**

This is an application by the Tenants for a monetary order for return of double the security deposit, pet damage deposit and the filing fee, for a total claim of \$1,850.00

One of the appearing Tenants gave affirmed testimony that she served the Landlords with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on August 20, 2008. A check of the tracking numbers indicates the Landlords either refused or neglected to pick up the registered mail, nonetheless, by operation of the Act they are deemed served five days after the mail was posted.

#### **Issue(s) to be Decided**

Has there been a breach of Section 38 of the Residential Tenancy Act by the Landlord?

#### **Background and Evidence**

The Tenants paid a security deposit of \$450.00 and a pet damage deposit of \$450.00 on February 18, 2008. On May 30, 2008, the Tenants gave the Landlords a notice to end tenancy at the end of June. The notice was contained in a letter along with their forwarding address.

The Tenants vacated the premises on June 28, 2008, and have not received their deposits back.

The affirmed testimony of the Tenant was that the Landlords had failed to do written incoming or outgoing condition inspection reports.

### Analysis

The Landlords are required to do written condition inspection reports under section 24 and 36 of the Act.

There was no evidence to show that the Tenants had agreed, in writing, that the Landlords could retain any portion of the security deposit, plus interest.

There was also no evidence to show that the Landlords had applied for Dispute Resolution, within 15 days of the end of the tenancy or receipt of the forwarding address of the Tenants, to retain a portion of the security deposit, plus interest.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Therefore, I find the Landlords have breached the Act and I must order, under section 38 of the Act, that they pay double the amounts of the deposits to the Tenants, along with accumulated interest and the filing fee for this Application.

The Tenants are given a formal Order in the above terms and the Landlords must be served with a copy of this Order as soon as possible. Should the Landlords fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

### Conclusion

The Landlords have breached the Act.

They are not entitled to retain any portion of the security deposit, or pet damage deposit and interest. Having made the above findings I Order, pursuant to section 38 and 67 of the Act, that the Landlords pay the Tenants the sum of **\$1,858.04**. This amount is comprised of double the pet damage deposit (\$450.00 x 2) and security deposit (\$450.00 x 2) and the interest on the original amounts held (\$8.04), and the \$50.00 fee for filing this Application.

September 22, 2008  
Date of Decision

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