

DECISION

Dispute Codes: MNDC, MNSD, FF

This hearing dealt with an application by the tenant for a monetary order for the amount of the security deposit, applicable accrued interest, double the security deposit, an extra month's rent collected at the inception of the tenancy and recovery of the filing fee for the cost of the application.

On August 23, 2001, the tenant paid a security deposit in the amount of \$1000.00. On September 1, 2001, he began his tenancy as a one year lease with an obligation to pay a monthly rent of \$2500.00 due in advance on the first of each month. At the time, the tenant also paid an extra month's rent of \$2500.00. In September of 2002, the tenant renewed his lease for another year. In September of 2003, the tenant continued his tenancy on a month to month basis. In February of 2008, the tenant gave notice to the landlord of his intention to end tenancy in three months. The tenancy ended June 1, 2008.

On July 22, 2008, the tenant gave to the landlord his forwarding address in writing.

Section 38 of the *Residential Tenancy Act* requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit. In this case, the landlord has not repaid the security deposit or made an application for dispute resolution.

As for the extra month's rent of \$2500.00 collected by the landlord at the inception of the tenancy, such collection was in breach of Section 19 of the Act. Therefore, even though the lease states that this amount of extra month's rent may be used to cover costs of any potential damages, I am not able to accept the tenant's assertion that it

forms part of the security deposit.

I find that the tenant has established a claim for the security deposit of \$1000, accrued interest of \$42.69, double the base amount of the security deposit in the amount of \$1000.00 and the extra month's rent of \$2500.00. The tenant is also entitled to recover the \$50.00 filing fee for this application. I grant the tenant an order under section 67 for the balance due of \$4592.69. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 01, 2008.