

## Decision

### **Dispute Codes:**

MNSD, FF

### **Introduction**

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the "Act") to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The Tenant gave affirmed evidence and this matter proceeded on its merits.

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

This is the Tenant's application for a Monetary Order for double the security deposit and to recover the filing fee from the Landlord.

(1) Is the Tenant entitled to an order for double the security deposit?

### **Background and Evidence**

#### Tenant's evidence

The Tenant testified that she mailed the Landlord the Application for Dispute Resolution together with the hearing package, by registered mail on January 9, 2009 to the address at which the Landlord carries on business. The Tenant provided a tracking number and a copy of the tracking search which shows that a notice was left at the Landlord's address on January 12, 2009, indicating where the package could be picked up. The

tracking search confirms that the package was unclaimed by the Landlord and was returned to the Tenant on January 28, 2009. The Tenant provided the original (unopened) registered mail package to the file as evidence.

The Tenant testified as follows:

- The tenancy started on November 1, 2005. The Tenant paid a security deposit to the Landlord in the amount of \$900.00 on October 11, 2005. The tenancy ended on November 1, 2008.
- The Tenant attempted to contact the Landlord on several occasions to arrange for a Move-Out Inspection, but a Move-Out Inspection was not done.
- The Tenant wrote to the Landlord on November 5, 2009 (a copy of this letter was entered into evidence on the case file). In the letter, the Tenant provided her forwarding address and requested return of the damage deposit. The Tenant mailed the letter to the Landlord, via registered mail, on November 5, 2008. The Tenant provided a tracking number and a copy of the tracking search which confirms the letter was successfully delivered to the Landlord on November 20, 2009.
- The Landlord did not return the security deposit and did not apply for dispute resolution claiming against the security deposit within 15 days of receipt of the Tenant's forwarding address in writing.

The Tenant asked for double the security deposit and to recover the cost of the filing fee from the Landlord.

### **Analysis**

Pursuant to Section 90 of the Act, a document given or served by registered mail is deemed to be received on the fifth day after it is mailed. Therefore, I find that the Landlord was served with the Tenant's Application for Dispute Resolution and hearing package on January 14, 2009.

On the written and oral evidence of the Tenant, I find that the Landlord received the Tenant's forwarding address, in writing, on November 20, 2008.

The Landlord did not return the Tenant's security deposit or make an application for dispute resolution against the security deposit within 15 days of receiving the Tenant's forwarding address in writing. Therefore, pursuant to Section 38(6)(b) of the Act, I find that the Tenant is entitled to a monetary order for double the security deposit, together with interest accrued on \$900.00 from November 1, 2005 to date.

The Tenant has been successful in her application and is entitled to recover the \$50.00 filing fee from the Landlord

I therefore make a monetary order in favour of the Tenant the amount of \$1,881.87, calculated as follows:

Double the security deposit:	\$1,800.00
Accrued interest on \$900.00 from Nov 1/05 to date:	\$31.87
Recovery of filing fee	<u>\$50.00</u>
TOTAL	\$1,881.87
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### **Conclusion**

I grant the Tenant a monetary order for \$1,881.87 against the Landlord. This order may be served on the Landlord and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

March 5, 2009

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