

## **DECISION AND REASONS**

This application was brought by the tenants seeking return of their security deposit in double under section 38(6) of the *Act* after the landlord failed to return it or make application to claim on it within 15 days of the latter of the end of the tenancy or receipt of the tenants forwarding address as required under section 38(1) of the *Act*.

This tenancy began December 1, 2007 and ended on November 30, 2008. Rent was \$700 per month and the landlord holds a security deposit of \$350 and a utilities deposit of \$100.

During the hearing, the tenant gave evidence that she had provided the landlord with a forwarding address and had attempted to contact him regarding return of the deposit but it had not been returned at the time of the hearing.

The landlord stated that the tenants had not participated in the move out inspection. He said the tenants did not appear at the time agreed to verbally and he provided a copy of the Notice of Final Opportunity to Schedule a Condition Inspection on the prescribed form.

Section 38(2) of the *Act* states that the landlord's obligation to return the security deposit is of no effect if the tenant fails to participate in the condition inspection required by section 36(1) of the *Act*.

I find as fact that the landlord offered the tenants the two required opportunities to participate in the condition inspection, the tenants did not do so, and their right to the security deposit was thereby extinguished.

Therefore, the application is dismissed without leave to reapply.

Dated March 02, 2009.

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Dispute Resolution Officer