

## **Decision**

**Dispute Codes:** MNR, MND, MNDC, MNSD, FF

### **Introduction**

This hearing dealt with two applications: 1) from the tenants for return of double the security deposit, and recovery of the filing fee, and 2) from the landlord for a monetary order for unpaid rent, damage to the unit, compensation for damage or loss under the Act / regulation / tenancy agreement, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether either or both parties are entitled to any or all of the above under the Act

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began December 1, 2008. Rent in the amount of \$1,550.00 was payable in advance on the first day of each month, and a security deposit of \$775.00 was collected on October 25, 2008. There was no move-in condition inspection report completed at the outset of tenancy although the parties agree there was a “walk in” inspection of the unit.

The tenants provided the landlord with notice to end the tenancy effective at the end of July 2009. Notice was given by way of e-mail dated June 12, 2009, and then by way of letter erroneously dated July 29, 2009. The parties agree that the letter dated July 29, 2009 was intended to be dated June 29, 2009, and the landlord acknowledged receipt of the letter prior to the end of June 2009. The tenants vacated the unit on or about July 18, 2009. A “walk out” inspection of the unit took place on July 31, 2009, however, there was no move-out condition inspection report completed by the parties.

Within 15 days after the end of July 2009, the landlord forwarded a cheque to the tenants in the amount of approximately \$535.54. This was the balance remaining after

the landlord's withholding of funds from the security deposit to cover miscellaneous costs. No agreement had been reached between the parties with regard to this withholding of funds.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute. Discussion included, but was not limited to, what understanding had been reached between the parties in regard to painting the tenants could undertake in the unit, what garbage remained to be removed from the premises after the end of tenancy, what mention there was of any damage during the occasion when the parties completed their "walk out" of the unit on July 31, 2009, and so on.

### **Analysis**

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that the parties will withdraw their respective applications for recovery of the filing fee;
- that the landlord will mail cheque payment to the tenants in the full amount of \$1,015.00;
- that the above cheque will be put into the mail by no later than midnight, Friday, December 18, 2009;
- that the above agreement comprises full and final settlement of all aspects of the dispute arising from this tenancy for both parties.

For the reference of both parties, attention is drawn to the provisions set out in the following particular sections of the Act:

Section 23: Condition Inspection: start of tenancy or new pet

Section 24: Consequences for tenant and landlord if report requirements not met

Section 35: Condition inspection: end of tenancy

Section 36: Consequences for tenant and landlord if report requirements not met

Section 38: Return of security deposit and pet damage deposit

The full text of the legislation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca/](http://www.rto.gov.bc.ca/)

### **Conclusion**

Following from the above and pursuant to section 67 of the Act, I hereby order the landlord to FORTHWITH mail cheque payment to the tenants in the full amount of **\$1,015.00**.

DATE: December 14, 2009

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Dispute Resolution Officer