



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND MNSD MNDC FF

Introduction

This hearing dealt with an application by the tenants for monetary compensation under the Act and an application by the landlord for a monetary order and an order to retain the security deposit in partial compensation of the monetary claim. At the outset of the hearing, the landlord stated that they wished to withdraw their application against the tenants. Accordingly I dismissed the landlord's application.

Both tenants, an advocate for the tenants and two agents for the landlord participated in the teleconference hearing.

Issues(s) to be Decided

Are the tenants entitled to monetary compensation under section 38 of the Act?

Background and Evidence

The tenancy began on July 1, 2008 and ended on August 28, 2009. At the outset of the tenancy, the tenants paid a security deposit of \$425. The tenants made an application for, among other items, double return of their security deposit. The hearing for that application was conducted on September 14, 2009, and the decision was issued on the same date. In her decision, the Dispute Resolution Officer found that the tenants provided the landlord with their written forwarding address on September 1, 2009, and that because fifteen days had not yet passed by the date of the hearing, the tenants' application for double return of their security deposit under section 38 of the Act was

premature. The Dispute Resolution Officer found that the tenants were entitled to recovery of the base amount of their security deposit of \$425 plus applicable interest of \$3.20, and she accordingly granted the tenants a monetary order for \$428.20.

Analysis

I find that the tenants already applied for double recovery of their security deposit and that matter has already been heard and a decision rendered. As the matter is *res judicata*, or already decided, I do not have the authority to re-hear the matter.

Conclusion

Both the application of the landlord and the application of the tenants are dismissed.

As the landlord chose to withdraw their application, they are not entitled to recovery of the filing fee for the cost of their application.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 12, 2010.
