

## **Decision**

**Dispute Codes:** MNSD, FF

### **Introduction**

This hearing dealt with an application from the tenants for a monetary order for return of double the security deposit, in addition to recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether the tenants are entitled to either or both of the above under the Act

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on July 1, 2009. Rent in the amount of \$950.00 was payable in advance on the first day of each month. A security deposit of \$475.00 was collected on July 3, 2009.

By letter dated October 1, 2009, the tenants informed the landlord of their intent to end the tenancy effective October 31, 2009. During the move-out inspection on October 31, 2009, a verbal agreement was reached between the landlord and tenant “AMM,” whereby the cost of carpet cleaning would be withheld from the repayment of the security deposit. Subsequently, the landlord repaid the balance of the security deposit by way of cheque in the amount of \$433.65.

During the hearing the parties presented different views on whether repayment had been made according to the provisions of section 38 the Act, that is, within 15 days of the later of “the date the tenancy ends” and “the date the landlord receives the tenant’s forwarding address in writing.”

The parties also gave some consideration during the hearing to the provisions in section 45 of the Act which speak to **Tenant’s notice**, and to whether notice had been properly given in the circumstances of this dispute, in addition to whether the tenants may be

potentially liable for loss of rental income for November 2009. Specifically, section 45(1) of the Act provides as follows:

45(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

During the hearing the parties very respectfully exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

### **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 tenants accept repayment from the landlord in the amount of \$433.65 as full satisfaction of the landlord's obligation to repay the security deposit;
- that the tenants withdraw their application to recover the filing fee;
- that the landlord will not proceed to file an application for dispute resolution in order to seek a monetary order for loss of rental income;
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties.

### **Conclusion**

Following from all of the above and pursuant to section 63 of the Act, as the dispute has been resolved I hereby dismiss the application.

DATE: January 4, 2010

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Dispute Resolution Officer