

## **DECISION**

Dispute Codes MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution made by the Tenants for a monetary order for return of double their security deposit and the filing fee for the Application.

The Tenants served the Landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on September 17, 2009, and deemed received under the Act five days later. Despite this, no one appeared on behalf of the Landlord. I find the Landlord has been duly served in accordance with the Act.

### Issue(s) to be Decided

Has there been a breach of Section 38 of the Residential Tenancy Act by the Landlord?

### Background and Evidence

The Tenants paid a security deposit of \$425.00 on May 1, 2007. The Tenants vacated the rental unit on August 26, 2009. The Tenants provided the Landlord with a written notice of the forwarding address to return the security deposit to on August 26, 2009, and agreed the Landlord could retain 48 cents from the security deposit.

The Landlord sent the Tenants a cheque for the balance due, plus the interest payable on September 16, 2009, which was received on September 28, 2009.

### Analysis

Based on the foregoing, the affirmed testimony and evidence, I find that the Landlord has breached section 38 of the Act. The Tenants are entitled to the return of double their security deposit, and the filing fee for this Application.

Under section 38 of the Act the Landlord had to apply for arbitration or return the security deposit and interest within 15 days of the end of the tenancy or receipt of the forwarding address of the Tenants. The Landlord failed to do this.

### Conclusion

The Landlord has breached section 38 of the Act. The Landlord is in the business of renting and therefore, has a duty to abide by the laws pertaining to Residential Tenancies.

Having made the above findings, I must Order, pursuant to section 38 and 67 of the Act, that the Landlord pay the Tenants the sum of **\$475.00**, comprised of \$425.00 for double the security deposit, and the \$50.00 filing fee for the Application.

The Tenants are given a formal Order in the above terms and the Landlord must be served with a copy of this Order as soon as possible. Should the Landlord fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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 06, 2010.

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Dispute Resolution Officer