

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution for the return of double the amount of the security deposit

### Issues(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary Order for double the amount of the security deposit and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenants submitted the following documents into evidence

- A copy of a letter from the tenants to the landlords dated September 8, 2009 requesting the return of their security deposit less \$86.10 for carpet cleaning and providing their forwarding address;
- A copy of a letter of response from the landlords dated September 11, 2009 requesting the tenants pay the landlords for damages over and above the security deposit.

The landlord submitted the following documents:

- A receipt and email regarding carpet cleaning in the amount of \$127.00 for the rental unit;
- An email from an unidentified source quoting an hourly rate of \$90.00;
- An invoice from a contractor for repairs to moldy drywall, holes and "deficiencies and to paint the rental unit; and
- 45 photographs of the rental unit.

The tenants testified confirming that they had provided their forwarding address on September 8, 2009 and acknowledged receipt of the landlord's letter. The tenants also acknowledged that they did accept the landlord could deduct carpet cleaning charges

The landlords did not attend the hearing.

### Analysis

Section 38(1) of the *Act* stipulates that within 15 days of the end of the tenancy and receipt of the tenants' forwarding address the landlord must repay the security deposit, less any amount that the tenant has agreed to in writing, or submit an Application for Dispute Resolution to claim against the security deposit.

If the landlord fails to comply with this requirement of the *Act*, Section 38 goes on to say the landlord must pay the tenants double the amount of the security deposit. I find the landlords have failed to comply with the Section 38(1).

While a tenancy agreement or receipt was not submitted confirming the amount of the security deposit, the letter dated September 11, 2009 from the landlord confirms the amount was \$425.00. Double this amount is \$850.00.

As the tenants have not provided any confirmation, in evidence, of the quote for carpet cleaning, I must rely on the landlord's receipt, in the amount of \$127.00 to determine a fair amount for carpet cleaning that will be deducted as per the tenants' previous agreement.

### Conclusion

I find that the tenants are entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$773.00** comprised of \$723.00 double the amount of security deposit less carpet cleaning and the \$50.00 fee paid by the tenants for this application.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) 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 28, 2010.

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Dispute Resolution Officer