

## DECISION

**This decision was amended on March 19, 2010, pursuant to a Request for Correction or Clarification that was filed by the Tenant on March 15, 2010. It has been amended to show the start date of the tenancy as stated at the hearing, which was August 28, 2008, but had been inadvertently recorded in my decision as April 28, 2008.**

### Dispute Codes:

MNSD and FF

### Introduction

This hearing was in response to an Application for Dispute Resolution, in which the Tenant applied for the return of her security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

Both parties were represented at the hearing. The Landlord stated that both he and the person named on the Application for dispute resolution are landlords and that he is representing both landlords at this hearing.

### Issue(s) to be Decided

The issue to be decided is whether the Tenant is entitled to the return of the security deposit paid in relation to this tenancy and to recover the cost of filing this Application for Dispute Resolution.

### Background and Evidence

The Tenant and the Landlord agreed that this tenancy began on ~~April~~ **August 28, 2008**; that it ended a few days prior to July 31, 2009; that the Tenant was required to pay monthly rent of \$1,695.00; that the Tenant paid a security deposit of \$848.00 on August 19, 2008; and that the Tenant mailed her forwarding address to the Landlord on, or about, September 28, 2009.

The Tenant and the Landlord agree that the Tenant did not authorize the Landlord to retain the security deposit; that the Landlord did not return any portion of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Landlord stated that he did not repay the security deposit because of damages to the rental unit and other monies owed in relation to this tenancy. I declined to hear evidence on those matters as this hearing does not relate to the Landlord's claim for

damages. The Landlord was advised that he has the right to file an Application for Dispute Resolution in which he claims for compensation for damages or for money owed.

### Analysis

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit plus interest or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Landlord failed to comply with section 38(1), as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1), the Landlord **must** pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid, plus any interest due on the original amount.

### Conclusion

I find that the Tenant has established a monetary claim of \$1,750.69, which is comprised of double the security deposit, \$4.69 in interest on the original amount of the security deposit, and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims 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: March 04, 2010.

Amended: March 19, 2010

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Dispute Resolution Officer