

## **DECISION**

Dispute Codes            MNDC, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for money owed or compensation for loss or damage under the *Act*, regulation or tenancy agreement, to recover double the security deposit and a Monetary Order to recover the filing fee.

The tenant served the landlord by registered mail on November 24, 2009 with a copy of the Application and Notice of Hearing. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Is the tenant entitled to recover double his security deposit?
- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss under the *Act*?

### Background and Evidence

This tenancy started on September 01, 2008. This started as a fixed term tenancy and reverted to a month to month tenancy at the end of the fixed term. The rent for this unit was \$683.00. The tenant paid a security deposit of \$332.50 on September 01, 2008.

The tenant testifies that he ended the tenancy and moved from the rental unit on October 31, 2009. The tenant took part in a move out condition inspection on October 30, 2009 when he gave the landlord his forwarding address in writing. The tenant claims he did not receive his security deposit back and served the landlord with his application to recover double his security

deposit on November 24, 2009. The tenant states the landlord sent him a cheque for his security deposit and interest dated November 11, 2009 which he received on December 01, 2009.

The tenant seeks to recover his costs for mailing this application to the landlord of \$7.50 and his \$50.00 filing fee for this application.

The landlord agent does not dispute the tenants' testimony and explained that there was a change of management companies for this property.

### Analysis

Both parties agree that the tenant gave the landlord his forwarding address in writing on October 30, 2009. Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit (plus any interest accrued on the original amount) to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on October 30, 2009 and the tenant vacated the rental unit on October 31, 2009. As a result, the landlord had until November 15, 2009 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the security deposit within 15 days but did return it on November 25, 2009. Therefore, I find that the tenant has established a claim for the return of double the security deposit less the amount already paid pursuant to section 38(6)(b) of the *Act*.

The tenant has also applied to recover the costs incurred of \$7.50 for the registered mail fee. I find pursuant to section 67 of the *Act* that the tenant may recover this amount from the landlord. I also find as the tenant has been successful with his claim that he is entitled to recover his \$50.00 filing fee from the landlord pursuant to section 72(1) of the *Act*. I find the tenant is entitled to a Monetary Order as follows pursuant to section 67 of the *Act*:

Double the Security deposit	\$665.00
Registered mail costs	\$7.50
Filing fee	\$50.00
Less amount of security deposit and interest returned to the tenant	(-\$333.52)
<b>Total amount owed to the tenant</b>	<b>\$390.64</b>

### Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$390.64**. The order must be served on the respondent and is enforceable through the Provincial Court 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 29, 2010.

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Dispute Resolution Officer