

## **DECISION**

**Dispute Codes:** MNSD and FF

### **Introduction**

This application was brought by the landlord seeking authorization to retain the tenant's security deposit in set off against damage to the rental unit and to recover the filing fee for this proceeding.

### **Issues to be Decided**

This application requires a decision on whether the landlord is entitled to authorization to retain the tenant's security deposit and to recover the filing fee for this proceeding.

### **Background and Evidence**

This tenancy began on July 1, 2004 under the present landlord's father, and the tenant was in existence when the present landlord purchased the rental building in March of 2007. Rent was \$703 per month and the landlord holds a security deposit of \$250 paid on or about July 1, 2004.

The landlord had submitted no evidence in support of his claim except a letter from the tenant to the landlord dated October 19, 2009, providing the tenant's forwarding address.

The tenant stated she had been taken by surprise by the application as she had maintained the home well during the tenancy and there had been no issues of consequence identified during the move-out condition inspection.

### **Analysis**

In the absence of any evidence to substantiate the landlord's claim, I find that this application must be dismissed without leave to reapply.

### **Conclusion**

The landlord's request for authorization to retain the security deposit is denied and the application is dismissed without leave to reapply and the landlord remains responsible for the filing fee.

This decision was provided orally to the parties during the hearing. Therefore, the landlord must now return the security deposit to the tenant in accordance with section 38(1) of the *Act* which allows the landlord 15 days to return the deposit; otherwise the tenant make application under section 38(6) of the *Act* for a Monetary Order for its return in double.

March 3, 2010