

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This was an application by the tenant for the return of her security deposit, including double the amount of the deposit. The hearing was conducted by conference call. The tenant attended and the landlord was represented by his named representative.

### Issues(s) to be Decided

Is the tenant entitled to the return of her deposit, including double the amount?

### Background and Evidence

The tenancy began on November 1, 2008 for a fixed term ending December 31, 2009. Monthly rent was \$3,000.00. The landlord demanded and the tenant paid a security deposit of \$3,000. The deposit exceeded the amount permitted under the *Residential Tenancy Act*. The deposit was paid on October 31, 2008. On December 4, 2009 the tenant gave the landlord her forwarding address in writing. The landlord's representative acknowledged at the hearing that the tenant did provide her forwarding address in writing. He also acknowledged that the landlord has not returned the deposit and has not applied for dispute resolution to retain the deposit.

The landlord's representative testified that the landlord was attempting to negotiate with the tenant to arrive at an agreement as to the amount that should be retained from the deposit for repairs and painting of the rental unit. He said the landlord was attempting to resolve the issue with the tenant without having to resort to the dispute resolution process.

### Analysis and Conclusion

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later.

I am satisfied that the tenant provided a forwarding address in writing, and that she served the landlord with documents notifying the landlord of this application as required by the legislation. The security deposit was not refunded within 15 days as required by the legislation and the doubling provision of section 38(6) therefore applies. I grant the tenant's application and award her the sum of \$6,007.62; this includes interest on the original deposit amount. The tenant did not request payment of the filing fee for her application and I make no order with respect to the filing fee. I grant the tenant a monetary order in the amount of \$6,007.62. This order may be registered in the Small Claims Court and enforced as an order of that Court.

Dated: April 28, 2010.

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