

## **DECISION**

Dispute Codes      MNSD, (MNDC), FF

### Introduction

This matter dealt with an application by the Tenants for the return of their security deposit, for compensation equivalent to the amount of the security deposit due to the Landlords' failure to return the deposit within the time limits required under the Act and to recover the filing fee for this proceeding.

The Tenants said they served the Landlords with the Application and Notice of Hearing (the "hearing package") by registered mail to the addresses listed on their application on December 18, 2009. The Tenants said the hearing packages were returned to them unclaimed. Section 90 of the Act states that a document delivered by registered mail is deemed to be received by the recipient 5 days later even if the recipient refuses to pick up the mail. Based on the evidence of the Tenants, I find that the Landlords were served with the hearing packages as required by s. 89 of the Act and the hearing proceeded in the Landlords' absence.

### Issues(s) to be Decided

1. Are the Tenants entitled to the return of their security deposit and if so, how much?

### Background and Evidence

This tenancy started on February 1, 2009 and ended on December 1, 2009 when the Tenants moved out. Rent was \$1,500.00 per month. The Tenants paid a security deposit of \$750.00 at the beginning of the tenancy.

The Tenants said they gave their forwarding address in writing to the Landlords on December 1, 2009 when they completed their move out inspection report and handed in their keys. The Tenants said they subsequently received a cheque from the Landlord, (BC.S.B.), dated December 15, 2009 in the amount of \$432.11 with an invoice for repairs of \$326.34 which had been deducted from their security deposit without their written authorization.

The Tenants said the Landlord, R.C., was the agent of the numbered company (also named as a Landlord) which acted as the property manager for the owner of the rental unit and which collected rent on behalf of the owner throughout the tenancy.

### Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he or she receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an application for dispute resolution to make a claim against it. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit.

I find that the Landlords received the Tenants' forwarding address on December 1, 2009 but did not return the full amount of their security deposit and did not make an application for dispute resolution to make a claim against the deposit. I also find that the Landlords did not have the Tenants' written authorization to keep all or part of the security deposit. As a result, I find pursuant to s. 38(6) of the Act, that the Landlords must return the balance of the Tenants' security deposit of \$326.34 together with compensation of \$750.00. As the Tenants have been successful in this matter, I also find pursuant to s. 72 of the Act that they are entitled to recover from the Landlords the \$50.00 filing fee for this proceeding

### Conclusion

A monetary order in the amount of **\$1,126.34** has been issued to the Tenants and a copy of it must be served on the Landlords. If the amount is not paid by the Landlords, the Order may be filed in the Provincial (Small Claim) Court of British Columbia 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: May 19, 2010.

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Dispute Resolution Officer