

## **Decision**

### **Dispute Codes:**

MNSD

### **Introduction**

This is the Tenant's application for a monetary order for double the security deposit pursuant to the provisions of Section 38(6) of the Act.

I reviewed the documentary evidence provided prior to the Hearing. The Tenant gave affirmed testimony.

### **Preliminary Matter**

At the outset of the Hearing, the Tenant testified that she named the Owner of the rental unit as the Landlord. The Tenant testified that she never met the Owner and that she had paid rent and the security deposit to persons living in the upstairs suite at the rental property. She testified that those persons told her that they were not the landlords, or agents of the landlord, and that she had to file her application against the Owner of the rental property.

The Tenant mailed the Notice of Hearing package to the Owner at the address the upstairs occupants provided to her. The registered mail package was returned to the Tenant, unclaimed.

Section 1 of the Act defines "Landlord" as follows:

**"landlord"**, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or **another person who, on behalf of the landlord,**
    - (i) **permits occupation of the rental unit under a tenancy agreement, or**
    - (ii) **exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;**
  - (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
  - (c) **a person, other than a tenant occupying the rental unit, who**
    - (i) is entitled to possession of the rental unit, and
    - (ii) **exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;**
  - (d) a former landlord, when the context requires this;
- (emphasis added)

The Tenant testified that she paid her rent to the upstairs occupants, that she had paid her security deposit to the upstairs occupants and that the male upstairs occupant had signed tenancy documents on behalf of the Landlord. Therefore, I find that the upstairs occupants are Landlords as defined by the Act. The Tenant did not serve the upstairs occupants with the Notice of Hearing documents.

I dismiss the Tenant's application **with leave to reapply**.

### **Conclusion**

The Tenant's application is dismissed with leave to reapply.

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: June 7, 2010