

## **DECISION**

**Dispute Codes:** MNSD and FF

### **Introduction**

This application was brought by the tenant on January 11, 2010 seeking a Monetary Order for return of the balance of his security deposit withheld by the landlord without his consent and without having made application to claim upon it. Within 15 days of the end of the tenancy. The tenant also seeks to recover the filing fee for this proceeding from the landlord.

At the end of the tenancy, the landlord's representative advised that the corporate landlord had changed since the tenant filed his application and is not as named on the application.

As section 93 of the *Act* provides that, "The obligations of a landlord under this Act with respect to a security deposit or a pet damage deposit run with the land or reversion," I have amended the tenant's application accordingly as authorized under section 64(3)(c) of the *Act*.

### **Issues to be Decided**

This application requires a decision on whether the tenant is entitled to a Monetary Order for return his security deposit and whether the amount should be doubled.

### **Background and Evidence**

This tenancy began on November 22, 2008 and ended on October 30, 2009. Rent was \$575 per month and the landlord held a security deposit of \$275 paid on or about November 22, 2008.

During the hearing, the tenant gave evidence that only \$40.12 of his \$275 security deposit had been returned within 15 days of the end of his tenancy.

The tenant also advised that he had not provided his address in writing, but had returned in person to the building manager to pick up the cheque.

## **Analysis**

Section 38(1) of the *Act* provides that, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address, the landlord must return the security deposit to the tenant or make application for dispute resolution to claim upon it.

Section 38(6) of the *Act* states that a landlord who does not comply with section 38(1), "must pay the tenant double the amount of the security deposit.

In this matter, I find as fact that the tenant received a partial return of the deposit but had not provided the landlord with his forwarding address.

I further find that the landlord retained a portion of the deposit without the tenant's consent and without having made application to claim on the it..

Therefore, I find that the landlord must return the balance of the deposit but the tenant is not entitled to have it returned in double. In addition, as the tenant's address was on

the application for dispute resolution, I deem that the landlord has received the address in writing as of the date of the hearing.

As the application has succeeded on its merits, I find that the tenant should recover his filing fee for this proceeding from the landlord.

Thus, I find that the landlord owes to the tenant an amount calculated as follows:

To return the tenant's security deposit	\$ 275.00
Interest (December 1, 2001 to date)	.45
Filing fee	<u>50.00</u>
Sub total	\$325.45
Less portion of deposit already returned	- 40.12
<b>TOTAL</b>	<b>\$285.33</b>

## Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order for **\$285.33**, enforceable through the Provincial Court of British Columbia, for service on the landlord.

June 28, 2010