

## **DECISION**

### **Dispute Codes:**

MNSD, MNDC, and FF

### **Introduction**

This hearing was in response to an Application for Dispute Resolution, in which the Tenant applied a monetary Order for money owed or compensation for damage or loss; for the return of his security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

### **Issue(s) to be Decided**

The issue to be decided is whether the Tenant is entitled to the return of double the security deposit paid in relation to this tenancy and to recover the cost of filing this Application for Dispute Resolution.

### **Background and Evidence**

The Tenant and the Landlord agreed that this tenancy began on November 05, 2009; that they had a fixed term tenancy agreement that was to end on April 30, 2010; that the Tenant paid a \$950.00 security deposit and a \$950.00 deposit for the security of the furniture in the rental unit; that the tenancy ended on, or about, December 18, 2009; that the Tenant sent the Landlord his forwarding address by mail on March 17, 2010; that the Tenant did not give the Landlord written authority to retain the security deposits; that the Landlord did not return any portion of the security deposits; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposits.

The Landlord stated that he had difficulty locating the Tenant after this tenancy ended and that he kept the security deposit as he believed he was entitled to compensation for issues arising out of this tenancy, the details of which he was not permitted to discuss at the hearing.

### **Analysis**

On the basis of the undisputed evidence, I find that this tenancy began on November 05, 2009; that the Tenant paid a \$950.00 security deposit and a \$950.00 deposit for the security of the furniture in the rental unit, both of which I consider to be a security

deposit; that the tenancy ended on, or about, December 18, 2009; that the Tenant sent the Landlord his forwarding address by mail on March 17, 2010; that the Tenant did not give the Landlord written authority to retain the security deposit; that the Landlord did not return any portion of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Landlord failed to comply with section 38(1), as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1), the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid.

### Conclusion

I find that the Tenant has established a monetary claim of \$3,850.00, which is comprised of double the security deposit and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The Landlord and the Tenant were clearly advised at the hearing that the Landlord retains the right to file an Application for Dispute resolution claiming compensation for any damages arising out of this tenancy.

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: July 07, 2010.

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Dispute Resolution Officer