

## **DECISION**

Dispute Codes      MNDC, MNSD

### Introduction

This hearing dealt with an application by the tenant for an order for the return of double her security deposit. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the tenant entitled to the return of double her security deposit?

### Background and Evidence

The parties agreed that the tenancy began on April 15, 2009 and ended on February 28, 2010. At the outset of the tenancy the landlord collected a security deposit of \$700.00. Sometime in February the tenant gave the landlord her forwarding address in writing and requested the return of the security deposit.

The landlord argued that the tenant had caused damage to the rental unit and had not participated in an inspection of the rental unit at the end of the tenancy. The landlord further argued that the tenant had not returned telephone calls made after the tenancy when the landlord wished to discuss the security deposit. The parties agreed that the landlord did not give the tenant written notice to schedule a time for condition inspection. The landlord did not make an application for dispute resolution requesting the right to retain the security deposit.

### Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. I find the landlord received the tenant's forwarding address in February and I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6) which

provides that the landlord must pay the tenant double the amount of the security deposit. Although there may be damage to the rental unit which is the fault of the tenant, and I make no finding on that issue, the landlord may not unilaterally retain the security deposit. I find that the landlord failed to give the tenant written notice to schedule a condition inspection and has therefore extinguished her right to claim against the security deposit pursuant to section 36 of the Act.

The landlord currently holds a security deposit of \$700.00 and is obligated under section 38 to return this amount as well as a further \$700.00 as a penalty.

### Conclusion

I grant the tenant an order under section 67 for \$1,400.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: July 12, 2010

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