

## **DECISION**

### **Dispute Codes:**

MNSD, FF

### **Introduction**

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for a monetary Order for return of the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that on May 6, 2010, copies of the Application for Dispute Resolution and Notice of Hearing were personally given to landlord's R.B., M.M and A.B at their place of business; at the address which was provided as the landlord's service address. Personal service to 3 of the 4 landlord's named as respondents occurred at 10:45 a.m. A copy of a 4<sup>th</sup> hearing package was given to A.B. for delivery to landlord R.M. The tenant's witness testified that she was present when service was completed, that the tenant told the landlord's that she was serving them as a result of not receiving her deposit.

These documents are deemed to have been served to respondent in accordance with section 89 of the Act; however the landlord did not appear at the hearing.

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

Is the tenant entitled to return of the deposit paid?

Is the tenant entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on August 29, 2009, rent was \$750.00 per month and a deposit in the sum of \$350.00 was paid by cheque to landlords M.M and R.M on September 15, 2009.

The tenant gave more than one months notice that she would move and vacated the unit on January 31, 2010. On February 9, 2010, the tenant handed the landlord a letter which requested return of the deposit and provided her forwarding address. This note was served to landlord M.M. at his place of business; an auto body shop address that was provided as the landlord's service address.

The tenant has not received her deposit.

### Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. In this case there is no dispute related to damages before me.

I have no evidence that that landlord has repaid the deposit as requested in writing by the tenant. Therefore, I find that the tenant is entitled to return of double the \$350.00 deposit paid to the landlord.

I find that the tenant's application has merit, and I find that the tenant is entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the tenant has established a monetary claim, in the amount of \$750.00, which is comprised of 700.00 double the deposit and \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary Order for \$700.00. In the event that the landlord does not comply with this Order, it may be served on the

landlord, filed with the Province of British Columbia Small Claims Court 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: September 15, 2010.

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Dispute Resolution Officer