

## **DECISION**

**Dispute Codes:** MNSD

### **Introduction**

This application was brought by the tenants on November 23, 2010 seeking return of their security deposit in double on the grounds that the landlord failed to return it or make application to claim upon it within 15 days of the latter of the end of the tenancy or receipt of the tenants' forwarding address.

As a preliminary matter, the landlord's representative asked that the matter be adjourned as the landlord was attending school. She further noted that the landlord had not been served with notice of the hearing until very recently.

Given that the tenants' application was made over four months ago, and given that this is a very straight forward claim easily addressed by the landlord' representative, and given that the tenants submitted proof that the landlord was served by registered mail sent on November 26, 2010, I found it would be unfair to the tenants to grant an adjournment and the hearing proceeded.

I note that while the landlord did not pick up the registered mail or respond to the tenants' attempts to serve her in person, the tenants have met the obligation for service set out at section 89(1)(c) of the *Act* and the landlord is deemed to have been served.

### **Issues to be Decided**

This application requires a decision on whether the tenants are entitled to a Monetary Order for return of their security deposit in double.

### **Background and Evidence**

This tenancy began on May 7, 2009 and ended on October 31, 2010. Rent was \$900 per month and the landlord holds a security deposit of \$450 paid near the end of April 2009.

During the hearing, the tenants submitted into evidence a copy of their letter of October 29, 2010 which, among other things, provided their forwarding address and stated that the address was provided for the purpose of return of the security deposit.

The tenants gave uncontested evidence that the security deposit has still not been returned though the landlord's representative stated it had been retained because of damage to the rental unit.

### **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 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 that the landlord did not make application to claim on the security deposit and did not return it as required by section 38(1) of the *Act*.

Therefore, I find that the landlord must return the \$450 security deposit in double for a total of \$900.

### **Conclusion**

The tenants' copy of this decision is accompanied by a Monetary Order for **\$\$900.00**, enforceable through the Provincial Court of British Columbia, for service on the landlord.

March 31, 2011