

## **Decision**

### **Dispute Codes:**

MNSD, FF

### **Introduction**

This Dispute Resolution hearing was convened to deal with an Application by the tenant for an order for the return of the security deposit and the pet damage deposit retained by the landlord.

Both parties appeared and gave testimony.

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

The issue to be determined, based on the testimony and the evidence, is whether the tenant is entitled to the return of the security deposit pursuant to section 38 of the Act.

### **Background and Evidence**

The tenant moved into the unit on November 1, 2010 and paid a security deposit and moved out of the unit on April 15, 2011. The tenant testified that the forwarding address was given to the landlord in April but the landlord failed to return the \$50.00 deposit,

The agent for the landlord testified that, although the amount was not paid within 15 days, he did intend to refund the deposit.

### **Analysis**

With respect to the return of the security deposit and pet damage deposit, I find that section 38 of the Act provides that, within 15 days after the later of the day the tenancy ends, and the date the tenant's written forwarding address has been received, the landlord must either repay the security deposit or pet damage deposit to the tenant with interest or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

The Act states that the landlord can only retain a deposit if the tenant agrees in writing the landlord can keep the deposit to satisfy a liability or obligation of the tenant. I find

that the tenant did not give the landlord written permission to keep the deposit, nor did the landlord make application for an order to keep the deposit.

Section 38(6) provides that If a landlord does not comply with the Act by refunding the deposit owed or making application to retain it within 15 days, the landlord may not make a claim against the security deposit or any pet damage deposit, and must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find that the tenant's outstanding security deposit \$50.00 and that under the Act the tenant is entitled to double the deposit, plus the \$50.00 fee paid by the tenant for this application for a total of \$150.00.

The agent for the landlord has requested that the monetary order be issued only against him and the tenant agreed.

### **Conclusion**

I hereby issue a monetary order to the tenant in the amount of \$150.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) 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: December 06, 2011.

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Residential Tenancy Branch