



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **Decision**

**Dispute Codes:** MND, MNSD, FF

### **Introduction**

The original hearing in response to applications from both parties was held on November 20, 2008, with a decision and order issued on that same date. The tenants participated in that hearing but the landlords did not. Subsequently, the landlords applied for review of the decision on the basis that they were unable to attend the hearing because of circumstances that could not be anticipated and were beyond their control. Following consideration of the landlords' application for leave for review, the dispute resolution officer granted the landlord's application and ordered that the decision and order dated November 20, 2008 be suspended until a review has been completed.

This decision arises from participation of both parties in the review hearing by conference call held on December 23, 2008.

The nature of the two applications is as follows: 1) from the landlords for a monetary order for costs associated with repairs to damage to the unit, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee; 2) from the tenants for double the return of the security deposit and recovery of the filing fee.

### **Issue to be Decided**

- Whether either or both parties are entitled to a monetary order under the *Act*

## **Background and Evidence**

Pursuant to a written tenancy agreement the month-to-month tenancy began on August 1, 2008. Following written notice to the landlords from the tenants the tenancy ended September 30, 2008. Rent in the amount of \$1,790.00 was payable in advance on the first day of each month. On July 13, 2008 the landlords collected a security deposit from the tenants in the amount of \$895.00.

Section 38 of the *Act* provides, in part, that a landlord must return the security deposit to a tenant within 15 days following the later of the end of tenancy or the date the landlord receives the tenants' forwarding address in writing or, in the alternative, a landlord may make an application for dispute resolution claiming against the security deposit.

By letter dated September 30, 2008, the tenants informed the landlords of their forwarding address. In the circumstances of this case, the landlords made application for dispute resolution within 15 days following the end of tenancy.

The parties participated in a move-in and move-out inspection and a report was completed on each occasion. The tenants challenged the authenticity of photographs submitted into evidence by the landlords as true representations of the condition of the unit at the end of tenancy. Further, they challenged the landlords' assertions that certain damages were the result of their short lived tenancy.

During the hearing the parties very respectfully afforded each other an opportunity to set out their differing views.

## **Analysis**

Pursuant to section 63 of the *Act* the parties turned their minds to compromise and ultimately achieved a resolution of the dispute. Specifically, it was agreed that the landlord will retain \$618.27 of the security deposit of \$895.00, and reimburse the tenants in the amount of the balance of \$276.73. Further, it was agreed that the landlord will mail cheque payment in the amount of \$276.73 to the attention of the

female member of the tenant partnership at the tenants' forwarding address; this cheque will be post-dated not later than January 16, 2009 and will be put into the mail by no later than January 12, 2009 in order that the cheque reaches the tenants by January 16, 2009. The parties agree that this settlement represents full and final resolution of all aspects of the dispute for both parties.

### **Conclusion**

Pursuant to the above, I hereby grant the tenants a monetary order under section 67 of the *Act* for **\$276.73**. Should the landlord fail to comply with the above agreement, this order must be served on the landlord and may be filed in the Small Claims Court and enforced as an order of that Court.

DATE: December 24, 2008

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Dispute Resolution Officer