

## **DECISION**

Dispute Codes      MNSD

### Introduction

This is an application filed by the Tenant for a monetary order for the return of the security deposit?

The Tenant attended the hearing by conference call and gave undisputed testimony. The Landlord did not attend.

### Issue(s) to be Decided

Is the Tenant entitled to a monetary order for the return of the security deposit?

### Background and Evidence

This Tenancy began on October 15, 2009 and ended on March 1, 2011. The Tenant has submitted a copy of the signed tenancy agreement. The monthly rent was \$1,200.00 payable on the 15<sup>th</sup> of each month and a security deposit of \$600.00 was paid on October 4, 2009.

The Tenant served the Landlord with the hearing and evidence package on April 7, 2011 by registered mail as shown in the submitted Canada Post Registered mail receipt and signature confirmation letter.

The Tenant states that the Tenancy ended on March 1, 2011 and that he did not provide a forwarding address in writing until the Tenant filed the application for dispute resolution and was served with the hearing document package on April 7, 2011.

The Tenant is seeking the return of the \$600.00 security deposit from the Landlord. The Tenant has stated that he has on a few occasions seen the Landlord since the end of the Tenancy and verbally requested the return of the security deposit. The Tenant states that the Landlord has ignored his telephone requests for the security deposit.

### Analysis

I am satisfied based upon the submitted evidence and direct undisputed testimony of the Tenant that the Landlord was properly served with the notice of hearing package. I find that as the Landlord was not served with the Tenant's forwarding address in writing until receipt of this application for dispute on April 7, 2011. The Landlord's response to comply with the Residential Tenancy Act, Section 38 does not start until this date.

38 (1) Except as provided in subsection (3) or (4) (a), **within 15 days after the later of**

(a) **the date the tenancy ends**, and

(b) **the date the landlord receives the tenant's forwarding address in writing**,

**the landlord must do one of the following:**

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

(6) **If a landlord does not comply** with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

Pursuant to Section 38, I find that as of the date of the hearing, the Landlord has failed to comply with the Act. The Landlord did not repay or file an application for dispute resolution for the security deposit. I find based upon the undisputed testimony and the submitted evidence that the Tenant has established a claim for the return of the \$600.00 security deposit. I further find that the Landlord has breached the Act and must pay the Tenant double the amount of the security deposit. The Tenant is granted a monetary order under section 67 for \$1,200.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$1,200.00.

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: July 19, 2011.

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Residential Tenancy Branch