



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Kandola Ventures Inc  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MND, MNDC, FF

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

The Tenant applied on August 7, 2013 for:

1. An Order for return of double the security deposit – Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on October 22, 2011 for:

1. A Monetary Order for damage to the unit - Section 67;
2. A Monetary Order for compensation – Section 67;
3. An Order to retain the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlords were each given full opportunity to be heard, to present evidence and to make submissions under oath.

### Issue(s) to be Decided

Is the Tenant entitled to return of double the security deposit?

Is the Landlord entitled to the monetary amounts claimed?

Are the Parties entitled to recovery of their respective filing fees?

Background and Evidence

The tenancy started on October 1, 2011 and ended June 30, 2013. Rent of \$1,050.00 was payable monthly and at the outset of the tenancy the Landlord collected \$525.00 as a security deposit. No move-in inspection was conducted.

The Tenant states that his forwarding address was provided to the Landlord on June 30, 2013 and that the Landlord wrote this address down in front of the Tenant and his wife. The Tenant states that the security deposit has not been returned and claims return of double the security deposit. The Landlord states that the Tenant only gave them the name of the forwarding city. The Landlord notes that the address provided in the Tenant's application indicates a different city than the one provided to the Landlord.

The Landlord submits that the Tenant did not clean the unit at move-out and left the unit infested with fleas. The Landlord states that the flea infestation was so bad that they were still present in all the carpets after being steam cleaned and following two infestation treatments. The Landlord states that the living room carpet was then replaced with laminate and that the remaining carpets were removed and replaced with new carpets. The Landlord states that the carpets were new in 2009 when the Landlord purchased the complex. The Landlord's Witness, stated to be an employee at the complex between 2010 and August 2013, states that the Tenant had a cat and a rabbit in the unit. The Witness states that other units with pets also had flea issues. The Landlord claims costs for the treatment and supplies, the removal and installation of carpet and half the cost of the new laminate in the living for a total cost of \$2,389.59. The Landlord provided a monetary worksheet setting out all the details of the costs and provided invoices.

The Tenant submits that the Tenants moved out of the unit as it was full of mold and rot. The Tenant states that the unit became infested during the summer as a result of the Landlord spreading bark mulch made from tree clippings. The Tenant states that his research indicated that this was a breeding ground for fleas. The Tenant states that there are fleas throughout the complex and provides a witness letter in relation to the

presence of fleas in other units. The Tenant states that he showed his flea bites to the Landlord last summer but that the Landlord refused to take any responsibility or do anything. The Tenant states that while he has a cat there were no rabbits. The Tenant states that his cat was given regular flea shots at the vet and was not carrying fleas. The Tenant states that he also used a vet supplied pesticide on the unit for the summer infestation.

The Tenant states that the carpets looked similar in age to a carpet that was new in 1980. In addition, the Tenant states that the living room carpet was damaged by a flood in December 2012 and that the Landlord did not make sufficient repairs causing the unit to be moldy and rot. The Landlord states that the carpets were steam cleaned and dried following the flood and that the Tenant interfered with the drying process. The Landlord states that the Tenant never once complained about fleas

### Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Residential Tenancy Branch Guidelines on the Useful Life of Building Elements provides that carpets carry a normal useful life of 10 years.

Given that the Tenant provided no evidence to support his claims that his cat did not have fleas, had flea shots or that outdoor mulch contributed to or caused an indoor infestation, and as there was no evidence in relation to any prior tenancy issues with fleas and based on the undisputed evidence that fleas were present in the unit during the tenancy, I find that the Landlord has substantiated on a balance of probabilities that the Tenant is responsible for the presence of the fleas. However, in relation to the

claims for the flooring, considering the Tenant's evidence of the apparent age of the carpets, the Landlord's photos showing older carpets, particularly on the stairs, the lack of supporting evidence from the Landlord in relation to the age of the carpets, the undisputed evidence of a previous flood over the living room carpet, and the Tenant's evidence of mold in the unit, I find on a balance of probabilities that the carpets were very near to the end of their useful life. As a result, I find that the Landlord has substantiated an entitlement to **\$108.36** for the cost of the flea treatment, **\$27.04** for the cost of supplies and a nominal amount of **\$200.00** to compensate for the loss in the value of a carpet of limited useful life.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Although the Tenant states that the forwarding address was provided to the Landlord at the end of the tenancy, I found the Landlord's evidence that the full address was not provided to be more persuasive. As a result, I find that the Tenant did not provide its forwarding address in writing as required under the Act.

As neither Party has had substantial success, I decline to award recovery of their respective filing fees. Deducting the entitlement of **\$335.40** from the security deposit of **\$525.00** plus zero interest leaves **\$189.60** owed by the Landlord to the Tenant. I order the Landlord to provide this amount to the Tenant forthwith.

### Conclusion

I Order the Landlord to retain **\$335.00** from the security deposit plus interest of \$525.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$189.60**. If necessary, this order may be filed in the 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: November 08, 2013

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Residential Tenancy Branch

