



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNSD, MNDC

### Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

Issue is whether or not the applicant is entitled to the return of his last month's rent, and to an order for the return of double security deposit.

### Background and Evidence

The applicant testified that:

- The landlord verbally requested that he move out of the rental unit at the end of May 2012, however since she was moving into the rental unit he believes he should have gotten his last month rent free, and since he paid his last month's rent, he is asking that it be returned.
- The landlord has also failed to return any of his security or pet deposit even though he gave the landlord a forwarding address in writing personally on July 23, 2012.
- Further the landlord never gave him any opportunity to do a move out inspection of the rental property.

The applicant is therefore requesting a monetary order as follows:

Return of last month's rent	\$850.00
Double \$425.00 security deposit	\$850.00
Double \$250.00 pet deposit	\$500.00
Filing fee	\$50.00
Total	\$2250.00

The respondent testified that:

- She was not required to give a notice to end tenancy, as this was a fixed term tenancy that required that the tenant vacate at the end of the term, which was May 31, 2012. She has supplied a copy of the signed tenancy agreement.
- The tenant was given the opportunity to do a move out inspection. Originally I suggested that we meet at 1 PM on May 31, 2012, however the tenant told me he was unable to do so and suggested we meet at 8 PM on May 31, 2012.
- On May 31 the tenant informed her he was not going to be ready and asked if they could meet at 12:30 on June 1, 2012 instead, and I agree to this change.
- I traveled from Victoria to Port Alberni on June 1, arriving at 12:30 at the rental property.
- The tenant did not show up for the move out inspection, and therefore I waited until 5 PM and then started cleaning up and packing the remainder of his belongings.
- I have provided a witness letter from my friend who was with me waiting to do the move out inspection.
- Therefore it was the tenant who did not participate in the move out inspection.

In response to the respondent's testimony the tenant testified that:

- The copy of the tenancy agreement supplied by the landlord has been altered, as the original agreement was only for six months and then reverted to a month-to-month tenancy. He no longer has his copy of the agreement because the landlord took it.
- He disputes the landlord's claim that she offered to do a move out inspection, no move-out inspection was ever offered.
- The reason his belongings were not out by noon on 1 June 2012, is because the landlord told him he could have extra time and then she went and moved his belongings before he could finish.

### Analysis

It is my finding that the tenant does not have the right to the return of his last month's rent.

First of all, although the tenant claims that the tenancy agreement supplied by the landlord has been altered, he has not met the burden of proving that claim, and on that tenancy agreement it states that the tenant must move out at the end of the tenancy on May 31, 2012.

Secondly even if this was not a fixture tenancy agreement that required the tenants to vacate, the landlord never served the tenant with a notice to end tenancy for landlord use, and therefore the tenant does not qualify for any rent rebate.

It is also my finding that the tenant's right to the return of his security deposit and pet deposit has been extinguished.

I accept the landlord's testimony that the tenant was offered an opportunity to do a move out inspection, and that he subsequently suggested an alternate date for which he failed to appear. Therefore even though the tenant was given two opportunities for the move-out inspection he still failed to participate.

The Residential Tenancy Act states that if a tenant fails to participate in the move out inspection, his right to the return of his security deposit and pet deposit is extinguished.

I therefore will not allow any of the tenants claim.

### Conclusion

This application is dismissed in full without leave to reapply.

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 18, 2012.

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Residential Tenancy Branch