



Civil Resolution Tribunal

Date Issued: May 18, 2018

File: SC-2017-003637

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Deck v. Williams*, 2018 BCCRT 194

B E T W E E N :

Walter Deck

APPLICANT

A N D :

Isaac Williams

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about whether the respondent Isaac Williams owes money to his former roommate and tenant, the applicant Walter Deck. Mr. Deck claims a \$200 damage deposit and \$250 based on an alleged oral agreement about Mr. Deck's moving out in mid-December 2016. The parties are self-represented.

JURISDICTION AND PROCEDURE

2. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
3. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing. Neither party requested an oral hearing.
4. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
5. Under tribunal rule 126, in resolving this dispute the tribunal may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.
6. I note the *Residential Tenancy Act* (RTA) does not apply to this dispute. Section 4(c) of the RTA says it does not apply where the homeowner shares a kitchen or bath with the tenant. It is undisputed that the parties shared a kitchen and bathroom during Mr. Deck's tenancy. Therefore, I find that the tribunal, rather than the Residential Tenancy Branch, has jurisdiction over this dispute.

ISSUES

7. The issues in this dispute are whether the respondent owes the applicant:

- a. \$200 for a damage deposit, and
- b. \$250 relating to Mr. Deck's early move out of the home.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
9. On October 19, 2015, the applicant rented a room in the respondent's home, in which they shared a bathroom and kitchen, along with other tenants. During the course of Mr. Deck's tenancy, from time to time the parties orally agreed that Mr. Deck would do things around the house and yard in return for reduced rent. Contrary to the applicant's submission, noting turns on this.
10. The parties agree that by December 4, 2016 the respondent gave the applicant 1 month to move out, with a move-out date of January 4, 2017. The written notice to end tenancy stated it was for cause, and listed a number of issues, including property damage.
11. The respondent says the applicant installed a fish tank with an offensive odour and unreasonably used the common space, contrary to the rental agreement. There were marks on the walls, and I note the applicant did not dispute the respondent's allegation that he used the walls to write notes. Further, another long-term tenant said she was uncomfortable around the applicant, which caused her to move out. The respondent says the applicant responded negatively and threateningly in response to the concerns, including punching him in his injured shoulder. The applicant did not provide any reply to these allegations.
12. It is undisputed that the applicant moved out on December 15, 2016.

\$250 claim for moving out early

13. The applicant says that the respondent verbally agreed that he would refund the applicant \$250 in rent if he left the house by mid-December instead of the January 4, 2017 deadline. Yet, when the applicant moved out on December 15, 2016, the respondent refused to pay the \$250.
14. The respondent says the applicant chose to leave early of his own accord, and that he never agreed to pay him to do so. The respondent's concerns about the applicant may have caused him to want the applicant to leave as soon as possible. However, I nonetheless find the respondent did not agree to pay the applicant \$250 to do so. The tone of the parties' text messages simply does not support the applicant's claim, and the applicant has no other supporting evidence.
15. As noted above, the applicant bears the burden of proof. While oral agreements are still agreements and are enforceable, they can be hard to prove. While it may be the parties fulfilled oral agreements in the past, that fact does not establish that the respondent orally agreed to pay the applicant \$250 to move out early. The text messages show that the applicant asserted he should get half a month's rent back for leaving early, but that is not the same thing as the respondent agreeing to pay it. I find the applicant has not proven this \$250 claim, given the evidence before me, and I dismiss it.

\$200 Damage deposit

16. The applicant also says the respondent refused to return his \$200 damage deposit. The applicant says he left the residence in the same condition it was in when he arrived, and therefore the respondent has no basis to keep the \$200.
17. The applicant submitted an October 16, 2015 rent receipt, which included a "damage deposit \$200" line item. The respondent submitted a November 1, 2015 receipt in evidence for \$550 total, which shows "damage deposit returned \$200". While the respondent denies there is any damage deposit owing, I find the

applicant did initially pay a \$200 damage deposit. It appears the respondent submits that the November 2015 receipt shows he returned that deposit.

18. In any event, even if the respondent had not yet returned the \$200 damage deposit, the respondent also submits that the applicant's room had to be repaired and painted given the markings on the walls. The applicant expressly advised the tribunal he did not intend to provide submissions in reply. The applicant's text messages with the respondent in part indicated an exchange about the applicant trying to resolve the issue of damage.
19. On balance, I find the applicant is not entitled to the return of a \$200 damage deposit, given that I accept the respondent needed to repair the applicant's bedroom. I find \$200 is not an unreasonable sum for such a repair. Given my conclusions above, I dismiss the applicant's request for the return of a \$200 damage deposit.

ORDER

20. I order that the applicant's dispute is dismissed.

Shelley Lopez, Vice Chair