



Civil Resolution Tribunal

Date Issued: January 7, 2019

File: SC-2018-003528

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Shakya v. Sterling Management Services Ltd.*, 2019 BCCRT 22

BETWEEN:

Ranish Shakya

APPLICANT

AND:

Sterling Management Services Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell

INTRODUCTION

1. The applicant, Ranish Shakya, says his apartment, which he rents, was burglarized due to the negligence of the respondent building managers, Sterling Management Services Ltd. The applicant says the respondent lost the master key for the building,

which he says led to the theft. He claims \$1,300 for the loss of a laptop, a tablet computer, a gym bag, and cash.

2. The respondent says the master key was not lost, and that the applicant may have left his door unlocked. The respondent also says the applicant has not proven the value of the lost items he claims.
3. For the reasons set out below, I find the applicant has not proven his claims.
4. The applicant is self-represented. The respondent is represented by an employee, Robert Herman.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 118 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.
6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is in issue.
7. 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.

8. 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.

ISSUES

9. The issue in this dispute is whether the respondent must reimburse the applicant for stolen items, and if so, how much.

EVIDENCE AND ANALYSIS

10. 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.
11. I find the applicant has not met the burden of proving his claims. Although he was instructed by tribunal staff to provide all relevant evidence, the applicant provided no evidence or submissions beyond the assertions set out in the Dispute Notice. While he claims the loss of a laptop, a tablet, computer, and a gym bag, he has not provided any evidence to show that he owned these items, what they were worth, or that they were stolen. He says he lost between \$200 and \$300 in cash, but he does not know the exact amount. As there is no way to place a specific valuation on the items the applicant says he lost, I do not order any reimbursement.
12. Also, while the applicant says he reported the theft to the police, he did not provide any evidence to prove the occurrence of the theft, such as a police report. While he provided a police file number, I again note that the burden is on the applicant to provide all relevant evidence. Without any police report or similar evidence, there is no way to confirm that the theft occurred, or what items were reported missing at the time of the incident. I am not prepared to accept the applicant's assertions on

this point without any corroborating evidence about the theft, the items taken, or the value of those items.

13. For these reasons, it is not necessary to consider whether the respondent was negligent, as submitted by the applicant. This is because regardless of the respondent's actions, the applicant has not proven his claimed losses. I therefore dismiss his claims.
14. The tribunal's rules provide that the successful party is generally entitled to recovery of their fees and expenses. The applicant was unsuccessful and so I dismiss his claim for reimbursement of tribunal fees. The respondent did not pay any fees and there were no dispute-related expenses claimed by either party.

ORDER

15. I dismiss the applicant's claims, and this dispute.

Kate Campbell, Tribunal Member