



# Civil Resolution Tribunal

Date Issued: June 8, 2021

File: SC-2020-009924

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Maxwell v. Lord*, 2021 BCCRT 627

**B E T W E E N :**

ANDREW MAXWELL

**APPLICANT**

**A N D :**

ANNIE LORD

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. The applicant, Andrew Maxwell, attempted to book a short-term Airbnb vacation rental with the respondent, Annie Lord.

2. The applicant seeks a refund of the \$525 they allegedly paid the respondent. They also seek a 1-week stay at the respondent's accommodations, which they value at \$840, and \$300 for emotional suffering.
3. The respondent does not confirm how much money, if any, the applicant paid. She says the applicant's claim is a "scam" and she does not owe the applicant any money.
4. Both parties are self-represented.

## **JURISDICTION AND PROCEDURE**

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
6. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
7. Section 42 of the CRTA says the CRT 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 CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

8. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

## **ISSUES**

9. The issues in this dispute are:
  - a. What did the applicant pay the respondent, and are they entitled to a refund of some or all of the claimed \$525 payment?
  - b. Is the applicant entitled to any other compensation?

## **EVIDENCE AND ANALYSIS**

10. In a civil dispute like this one, the applicant must prove their claim on a balance of probabilities. The applicant provided evidence but no submissions despite having the opportunity to do so. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
11. The respondent says on June 30, 2020, the applicant contacted her through the Airbnb platform to book a same-day property rental. She says the applicant said they could not complete the reservation through Airbnb, so the parties continued the transaction by phone and text message that evening.
12. The applicant provided copies of text messages that show that the respondent asked for \$150 for the night plus a \$200 deposit. The text messages indicate that the applicant failed to comply with the respondent's request for current, government-issued photo identification and then fell asleep before the respondent accepted their rental request. I infer that the applicant did not stay at the respondent's property.
13. The applicant provided 3 e-transfer receipts from June 30, 2020. The first receipt is for \$100. The second receipt is for \$175. The amount on the third receipt is obscured

but the confirmation number is the same as the second receipt, so I find it is a duplicate. I return to this evidence below.

14. As noted, the respondent does not say how much, if anything, the applicant paid her. She argues that if a guest does not stay or provide adequate notice of cancellation, there is no refund. She relies on a copy of her cancellation policy posted on the Airbnb platform, which says there are no refunds for cancellations made within 7 days of check-in. Given that the applicant attempted to complete the reservation on the Airbnb platform, I find the cancellation policy was an express or implied term of the parties' contract. I therefore find anything the respondent paid for a nightly rate was non-refundable. Anything the applicant can prove they paid as a deposit, however, may be refundable.
15. The respondent submitted a copy of an email she says the applicant sent her before filing this CRT dispute. The email claims to be from the CRT, and follows a typical CRT email format, including the usual headings and graphics. The email accuses the respondent of demanding money from a "highly respected and well-trusted member of the community." It goes on to say that the CRT will "drop the matter immediately" if the respondent pays the applicant \$624.84, but otherwise the CRT will "continue processing a court order against you which may result in [the applicant] being granted ownership of the property writ large."
16. As noted, the applicant did not make submissions despite having the opportunity to do so. While parties are under no obligation to provide submissions, a party's failure to respond to a piece of evidence harmful to their position can lead to the CRT making an adverse inference. This is because it is generally reasonable to assume that if a party disputed the authenticity of a piece of evidence, they would say so. In the circumstances, I make an adverse inference and find the forged email came from the applicant. I find that the applicant tried to deceive the respondent into paying them by impersonating the CRT. This intentional deception shakes my confidence in the applicant's overall evidence. Specifically, I find that if the applicant was prepared to forge a CRT email to the respondent, I cannot trust that any of the documents they

provided are authentic. I do not accept any of the applicant's evidence, including the e-transfer receipts.

17. As noted above, the e-transfer receipts included a duplicate that the applicant incorrectly indicated was a third e-transfer. Casting further doubt on the e-transfer receipts is that the \$100 and \$175 amounts are inconsistent with the applicant's text messages, which refer to \$200 and \$250 payments. The e-transfers also do not add up to the \$525 refund claim.
18. As noted above, the applicant bears the burden of proving their claims. Given that that I do not accept the applicant's evidence, I find the applicant has not proved that they paid anything or are entitled to a refund or damages. I dismiss the applicant's claims.
19. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to recover their CRT fees and reasonable dispute-related expenses. The respondent was successful but did not pay fees or claim expenses. I dismiss the applicant's claim for reimbursement of CRT fees and for \$850 for "time spent", which the CRT does not generally allow even if a party is successful.

## **ORDER**

20. I dismiss the applicant's claims and this dispute.

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Micah Carmody, Tribunal Member