



Civil Resolution Tribunal

Date Issued: June 30, 2021

File: SC-2021-002087

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Conant v. Gold*, 2021 BCCRT 724

BETWEEN:

LOUISE CONANT

APPLICANT

AND:

CATHARINA GOLD

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This is a contractual dispute. The applicant, Louise Conant, had an agreement to rent a cabin owned by the respondent, Catharina Gold. Ms. Conant says that Ms. Gold

failed to honour the agreement Ms. Conant made with Ms. Gold's agent, MH. Ms. Conant asks for an order that Ms. Gold refund the \$2,050 she paid for the cabin rental. Ms. Gold says her agency contract with MH ended and that Ms. Conant refused to sign a new contract with Ms. Gold. Ms. Gold denies that she owes Ms. Conant any money.

2. The parties are self-represented.

JURISDICTION AND PROCEDURE

3. 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.
4. 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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
5. 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.
6. 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

7. The issues in this dispute are:
 - a. Whether the parties had a binding contract, and
 - b. Whether either party breached the contract and, if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

8. In a civil proceeding like this one, an applicant must prove their claims on a balance of probabilities. I have read all the parties' submissions but refer only to the evidence and argument that I find relevant and necessary to provide context to my decision.
9. On March 5, 2019, Ms. Conant entered into an agreement to rent Ms. Gold's cabin between August 10 and 17, 2019. The agreement stated that Ms. Gold had authorized an agent, MH, to enter the rental agreement on her behalf. The agreement was that Ms. Conant would pay rent of \$1,900 plus an additional \$150 charge for sheet rental, for a total of \$2,050. Ms. Conant paid MH a \$1,025 deposit in March of 2019 and paid the balance of \$1,025 in July of 2019.
10. At some point before the planned rental, MH stopped acting as Ms. Gold's agent. Ms. Gold says that her contract with MH was terminated.
11. In a series of emails between July 29 and 31, 2019, Ms. Gold informed Ms. Conant that Ms. Conant's rental agreement was "invalid" and offered her a new contract with new terms surrounding the damage deposit and an additional \$300 payment to represent a fee she had paid to MH. Ms. Gold stated that MH "broke the contract" by not paying her in full, and suggested that Ms. Conant could seek compensation from MH for this additional payment. Ms. Conant declined to sign a new agreement as, in her view, she already had a binding contract. Ms. Conant asked for her money back, but Ms. Gold declined to refund the money on the basis that the agreement did not allow for refunds or cancellation.

12. Ms. Conant says her money should have been returned as Ms. Gold did not honour the initial agreement. Ms. Gold submits that the cabin was available for Ms. Conant to use if she entered into a “new contract”, and notes that she did not receive a refund on the commission that MH withheld from Ms. Conant’s payment.
13. The law of agency applies when one party (known as the principal) gives authority to another party (the agent) to enter contracts with third parties on their behalf. In an agency situation, a principal can sue or be sued on a contract entered into by the agent. As long as the agent discloses that they are acting as an agent for the principal, the agent generally will not be liable under a contract they make between the principal and a third party.
14. Ms. Gold admits that she allowed MH to act as her agent and enter into agreements on her behalf, including the agreement with Ms. Conant. I find that the agreement between Ms. Conant and MH as agent is a binding agreement for which Ms. Gold alone is responsible as principal. The fact that MH later stopped being Ms. Gold’s agent does not impact the validity of the agreements MH made on her behalf. This is so even if MH breached a separate contract between herself and Ms. Gold as Ms. Gold submits. MH is not a party to this dispute and I make no findings about MH’s obligations to Ms. Gold.
15. Unless an agreement is terminated, the parties must fulfil their obligations under it. Termination by repudiation occurs when one party shows an intention to not be bound by the agreement and the other party accepts the repudiation (see *Kuo v. Kuo*, 2017 BCCA 245 at paragraphs 39 to 40).
16. I find that this is what occurred here. The parties had a valid and binding agreement. Ms. Gold was not entitled to treat the agreement as invalid or insist that Ms. Conant negotiate a new contract with different terms and additional costs, even if Ms. Gold experienced a loss as a result of the breakdown of the relationship with MH.

17. I find that Ms. Gold's refusal to honour the existing agreement amounted to a breach of the agreement and demonstrated a clear intention to no longer be bound by its terms. I also find that, by asking for a refund, Ms. Conant accepted the repudiation of the agreement. After the repudiation was accepted, Ms. Gold could no longer rely on the agreement's terms about refunds or cancellation.
18. I find that the appropriate remedy for Ms. Gold's breach and repudiation of the rental agreement is damages. Damages for breach of contract are intended to put a party in the position they would have been in had the contract been carried out as agreed (see *Water's Edge Resort Ltd. v. Canada (Attorney General)*, 2015 BCCA 219 at paragraph 38).
19. Ms. Conant says that, after "considerable stress", she was able to arrange for a new cabin rental at the last minute for an additional cost. She does not claim the additional cost of this rental, but rather claims only the return of the \$2,050 she paid Ms. Gold for the cabin and sheet rental. I find that she is entitled to this amount as damages for Ms. Gold's breach of the agreement.
20. The *Court Order Interest Act* applies to the CRT. Ms. Conant is entitled to pre-judgment interest on the \$2,050 from August 26, 2019 (being the date Ms. Conant asked for the refund) to the date of this decision. This equals \$43.15.
21. Under section 49 of the CRTA and CRT rules, the CRT generally will order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I find Ms. Conant is entitled to reimbursement of \$125 in CRT fees. She did not claim any dispute-related expenses.
22. As Ms. Gold was not successful, I dismiss her claim for reimbursement of \$84.00 in dispute-related expenses.

ORDERS

23. Within 30 days of the date of this decision, I order Ms. Gold to pay Ms. Conant a total of \$2,218.15, broken down as follows:
 - a. \$2,050 in damages,
 - b. \$43.15 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
24. Ms. Conant is entitled to post-judgment interest, as applicable.
25. I dismiss Ms. Gold's claim for dispute-related expenses.
26. Under section 48 of the CRTA, the CRT will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the CRT's final decision. The Province of British Columbia has enacted a provision under the *COVID-19 Related Measures Act* which says that statutory decision makers, like the CRT, may waive, extend or suspend mandatory time periods. This provision is in effect until 90 days after June 30, 2021, which the date of the end of the state of emergency declared on March 18, 2020, but the Province may shorten or extend the 90-day timeline at any time. A party should contact the CRT as soon as possible if they want to ask the CRT to consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.

27. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. A CRT order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Lynn Scrivener, Tribunal Member