



Civil Resolution Tribunal

Date Issued: June 30, 2021

File: SC-2021-000361

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Gore v. MacLean*, 2021 BCCRT 720

BETWEEN:

CAMERON GORE

APPLICANT

AND:

ASHLEY LYNN WILSON MACLEAN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Chad McCarthy

INTRODUCTION

1. This is a “roommate dispute” about residential accommodations. The respondent, Ashley Lynn Wilson MacLean, rented a room in her home to the applicant, Cameron Gore. Mr. Gore says Ms. MacLean evicted him from the home with insufficient notice.

He claims \$1,600 for a damage deposit, 3 weeks rent, damage to and loss of his belongings, and storage costs.

2. Ms. MacLean denies that her move-out notice to Mr. Gore was insufficient, or that she owes him anything.
3. The parties are each self-represented in this dispute.

JURISDICTION AND PROCEDURE

4. 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.
5. 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.
6. 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.
7. 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.

8. Under the *Residential Tenancy Act* (RTA), the Residential Tenancy Board (RTB) has exclusive jurisdiction to decide disputes involving rights and obligations under the RTA or under a residential tenancy agreement about a tenant's occupation of a rental unit, among other things. However, RTA section 4(e) expressly excludes from the RTB's jurisdiction living accommodation in which a tenant shares bathroom or kitchen facilities with the owner of that accommodation. It is undisputed that Mr. Gore shared kitchen facilities with Ms. MacLean. In the Dispute Notice, Mr. Gore says he contacted the RTB, but there is no evidence that the RTB accepted jurisdiction over the disputed issues. I find that the RTA does not apply to the room rental, and that the CRT is the appropriate forum for this dispute.
9. Despite multiple attempts by CRT staff to contact Mr. Gore, including at a confirmed email address and by telephone, Mr. Gore provided no evidence or submissions in this dispute, except for what he set out in the Dispute Notice. However, Mr. Gore did not seek to withdraw his claims, so I will decide this dispute on the materials before me.

ISSUE

10. The issue in this dispute is whether Ms. MacLean provided inadequate move-out notice to Mr. Gore, and whether she owes him \$1,600 for a damage deposit, rent, storage costs, and lost and damaged belongings.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, as the applicant Mr. Gore must prove his claims on a balance of probabilities. I have read all the parties' submitted material but refer only to the evidence and arguments that I find relevant and necessary to provide context for my decision.
12. Mr. Gore rented a room from Ms. MacLean at the end of November 2020. The parties signed a "Room Rental Agreement" that said the rental was month-to-month, and that either party needed to give the other party 30 days' written notice to terminate the

rental. Rent was \$650 per month, with a \$325 damage deposit. Ms. MacLean admits that Mr. Gore paid the damage deposit and paid \$650 for January 2021 rent in advance.

13. The parties had several disagreements, and Ms. MacLean found several of Mr. Gore's undisputed behaviours to be objectionable. The parties agree that on January 2, 2021, Ms. MacLean gave Mr. Gore a 30-day notice to vacate the home, because of these disagreements. Mr. Gore says that he agreed to move out within 30 days in accordance with Ms. MacLean's notice. Ms. MacLean says that when she gave Mr. Gore notice, she was willing to let him reside in the room until February 1, 2021, and that she considered moving out of the home until he vacated the premises. Ms. MacLean says she later decided that Mr. Gore should move out immediately, when he made what she says was a false accusation to the police.
14. The parties agree that the police attended the home on the night of January 5, 2021 because of a complaint by Mr. Gore. However, nothing in the parties' agreement allowed immediate eviction with less than 30 days' notice. So, I find nothing turns on whether Mr. Gore made a false allegation to the police.
15. Ms. MacLean says that the police incident, combined with the parties' disagreements and Mr. Gore's behaviour, caused her to feel unsafe. So, she demanded that Mr. Gore leave the next day, January 6, 2021. Mr. Gore says Ms. MacLean started to remove his belongings from the unit, including his bicycle. Ms. MacLean says she had the bicycle moved outside, but Mr. Gore removed his other belongings and left without asking for more time or saying anything. On balance, I find Mr. Gore left without significant protest on January 6, 2021.
16. Ms. MacLean says that by making an allegedly false accusation to the police, Mr. Gore forfeited his January 2021 rent and any further room accommodations. As noted, nothing in the parties' rental agreement allowed immediate eviction without notice, and there was no specific provision about rent refunds. Under the agreement, I find Mr. Gore was to have access to his room until February 1, 2021 in return for the \$650 he paid for January 2021 rent. I find that Ms. MacLean denied Mr. Gore further

room access after January 6, 2021 and did not provide any rent refund. I find that nothing in the rental agreement or in Mr. Gore's behaviour permitted Ms. MacLean to evict him on January 6, 2021, so I find Ms. MacLean broke the parties' agreement.

17. The question is, did Mr. Gore sustain damages from this breach of contract? Damages normally compensate a party by putting them in the same position they would have been in if the contract had not been broken. Mr. Gore claims \$1600 in damages. He says the damages include storage costs of \$140, but provided no further breakdown of the claimed amount.
18. In an undisputed text message, Mr. Gore told Ms. MacLean, "kicking me out like that wasn't really necessary. I had said yes to my new place like an hour before and moved in the next day." Mr. Gore does not explain this message or clarify what his moving plans were before the January 6, 2021 eviction, despite having an opportunity to do so. On the evidence before me, I find that Mr. Gore had already rented different accommodations before Ms. MacLean told him to vacate on January 6, 2021. Further, given the parties' poor relationship, the fact that Mr. Gore moved into his new accommodations on January 7, 2021, and his statement that it was not necessary to evict him immediately on January 6, 2021, I find it likely that he had arranged to move into his new accommodations on January 7, 2021 anyway, before being evicted. I find this is consistent with the lack of evidence showing he protested the eviction at the time, or that he intended to stay in Ms. MacLean's home beyond January 6, 2021.
19. So, I find the fact that Ms. MacLean asked Mr. Gore to leave on January 6, 2021, in breach of their rental agreement, did not result in any damages to Mr. Gore for unused rent payments. This is because I find the January 6, 2021 eviction did not affect Mr. Gore's pre-existing moving plans, which I found above were to move into his new accommodations on January 7, 2021 and not return to Ms. MacLean's home. Specifically, I find it likely that before Ms. MacLean asked him to leave on January 6, 2021, Mr. Gore had already decided to leave Ms. MacLean's home on that date. Given my finding that this intended departure was voluntary and did not result from Ms. MacLean's eviction, I find the eviction did not put Mr. Gore in a different position

than he otherwise would have been in. Further, I find Mr. Gore did not give Ms. MacLean the 30 days' move-out notice required under the rental agreement. So, I find he is not entitled to a rent refund. I dismiss Mr. Gore's claim for a refund of 3 weeks of rent payments.

20. As noted, Mr. Gore admits he moved into new accommodations the day after he vacated the room at Ms. MacLean's home. Mr. Gore does not explain why he required additional storage for his possessions at the time of his move. Further, there are no receipts or other evidence proving that Mr. Gore paid the claimed \$140 for storage. So, I dismiss Mr. Gore's claim for \$140 in storage costs as unproven.
21. Mr. Gore also claims an unspecified amount for damage to or loss of his belongings. However, he does not describe any of the alleged loss or damage, or the value of each lost item or repair cost. I dismiss his claims for lost and damaged belongings, which I find are insufficiently described and unproven.
22. Turning to the \$325 damage deposit, Mr. Gore generally denies causing any damage. Ms. MacLean submitted an accounting of the \$343.30 she says Mr. Gore owed for gas and electric bills, a missing gas can and its contents, wall repairs, a broken teapot, and cleaning charges. She submitted receipts, invoices, and other evidence supporting these damages and charges. Mr. Gore does not comment on these items or the amounts charged by Ms. MacLean. I find Mr. Gore does not specifically deny each of Ms. MacLean's charges against the damage deposit. On balance, I find the evidence shows Mr. Gore owed those amounts to Ms. MacLean under the implied terms of their rental agreement. I find Ms. MacLean was entitled to keep the entire \$325 damage deposit toward the amount Mr. Gore owed her, so I dismiss his claim for the damage deposit.
23. Overall, I find Mr. Gore has not met his burden of proving that Ms. MacLean owes him \$1,600 for rent, a damage deposit, lost and damaged items, and storage costs. I dismiss Mr. Gore's claims.

CRT FEES AND EXPENSES

24. Under section 49 of the CRTA and CRT rules, the CRT will generally 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. Mr. Gore was unsuccessful in his claims, but Ms. MacLean paid no CRT fees and paid no CRT dispute-related expenses. So, I order no reimbursements.

ORDER

25. I dismiss Mr. Gore's claims, and this dispute.

Chad McCarthy, Tribunal Member