



Civil Resolution Tribunal

Date Issued: July 16, 2021

File: SC-2020-006331

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Bradley v. MacFarlane*, 2021 BCCRT 784

BETWEEN:

ALEXANDER BRADLEY

APPLICANT

AND:

JESSIE MACFARLANE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The respondent, Jessie MacFarlane, rented an apartment from the applicant, Alexander Bradley. Mr. Bradley claims a total of \$4,908.46 in rent, utilities, lost or furniture damage, and flights. Ms. MacFarlane denies all of Mr. Bradley's claims.
2. For the reasons that follow, I find that Mr. Bradley's claims are outside of the jurisdiction, or legal authority, of the Civil Resolution Tribunal (CRT). I find that Mr. Bradley must bring his claims to the Residential Tenancy Branch (RTB). For this reason, I refuse to resolve Mr. Bradley's claims.
3. The parties are each self-represented.

JURISDICTION AND PROCEDURE

4. These are the CRT's formal written reasons. 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. In some respects, both sides to this dispute call into question the credibility, or truthfulness, of the other. However, in the circumstances of this dispute, I find that it is not necessary for me to resolve the credibility issues that the parties raised. I therefore decided to hear this dispute through written submissions.
6. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to remove those issues.

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 pay money or to do or stop doing something. The tribunal's order may include any terms or conditions the CRT considers appropriate.

ISSUE

9. The issue in this dispute is whether the CRT has jurisdiction over Mr. Bradley's claims.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, Mr. Bradley as the applicant must prove his case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
11. It is undisputed that Mr. Bradley rented his apartment to Ms. MacFarlane because he was going overseas, starting around October 1, 2018. Mr. Bradley says that Ms. MacFarlane failed to pay rent, damaged his furniture, failed to return his internet router, and forced him to change his flight home. Ms. MacFarlane says that he left the apartment in an unlivable condition. She says she does not owe him anything.
12. The CRT does not have jurisdiction over disputes about residential tenancy agreements because the RTB decides these disputes under the *Residential Tenancy Act* (RTA). Under section 1 of the RTA, a sublease agreement is a type of tenancy agreement where a tenant transfers their rights to a subtenant for a fixed period of time. The subtenant must agree to vacate the rental unit before the tenant's tenancy agreement ends.

13. I asked the parties for submissions about the CRT's jurisdiction to hear this dispute. They both provided further submissions but neither responded to my question. Instead, they both repeated why they thought they should be successful.
14. There is no written agreement between the parties. It is unclear for how long they originally intended Ms. MacFarlane to sublet Mr. Bradley's apartment. It is unclear when Mr. Bradley's tenancy ended. It is also unclear whether Mr. Bradley intended to return to the apartment when he returned to Canada.
15. With that, there is not enough evidence before me to determine conclusively whether the parties' agreement was a sublease agreement subject to the RTA. Based on the parties' submissions and the emails in evidence with Mr. Bradley's property manager, I find it more likely than not that it was. I say this because Mr. Bradley's property manager referred to him as the "legal tenant", which I take to mean the primary tenant, when the property manager told Ms. MacFarlane that they intended to change the apartment's locks. So, I find that the RTB has jurisdiction over this dispute because it is about a sublease agreement. For that reason, I refuse to resolve this dispute under section 10 of the CRTA.
16. In the circumstances, I direct the CRT to refund Mr. Bradley's CRT fees.

ORDER

17. I refuse to resolve this dispute under section 10 of the CRTA.

Eric Regehr, Tribunal Member