



Civil Resolution Tribunal

Date Issued: August 12, 2021

File: SC-2021-001802

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Watson v. 673848 B.C. Ltd.*, 2021 BCCRT 886

BETWEEN:

CAMERON WATSON

APPLICANT

AND:

673848 B.C. LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This dispute is about allegedly overcharged housing fees.
2. The respondent, 673848 B.C. Ltd. (Nicola Meadows) does business as Nicola Meadows Assisted Living care facility. The applicant, Cameron Watson, lived at Nicola Meadows until November 4, 2019. Mr. Watson says Nicola Meadows

overcharged him for housing fees and seeks reimbursement of \$2,846.60 for those overcharges. Mr. Watson also claims \$350 as damages for 2 knives which he says Nicola Meadows confiscated, for a total of \$3,196.60.

3. Nicola Meadows says Mr. Watson is responsible for \$5,691.28 in damages for the cost of carpet replacement, extra cleaning, and odour abatement in his suite as well as extra cleaning of common areas. As no counterclaim was filed, I infer Nicola Meadows argues that it owes Mr. Watson nothing, given the extra costs Nicola Meadows had to pay for Mr. Watson's alleged damage.
4. Mr. Watson is represented by a family member (TW). Nicola Meadows is represented by its owner (VS).

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. 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.
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.

ISSUE

9. The issue in this dispute is whether Nicola Meadows must reimburse Mr. Watson for paid housing fees or the allegedly missing knives and, if so, how much?

EVIDENCE AND ANALYSIS

10. In a civil claim like this one Mr. Watson bears the burden of proving his claims on a balance of probabilities, because he is the applicant. I have reviewed both parties' submissions and evidence but only refer to that necessary to explain my decision. I was not able to view Mr. Watson's submitted spreadsheet explaining housing costs and charges due to its unsupported format. However, I decided not to ask Mr. Watson to resubmit the spreadsheet, as it would not have changed my findings below.
11. Mr. Watson moved into his own suite at Nicola Meadows in July 2018. On November 4, 2019 he was transported to hospital by ambulance due to an undisputed deterioration in his medical condition. Mr. Watson did not return to Nicola Meadows after that date. On November 14, 2019 TW removed his personal items from Nicola Meadows. TW has authority over Mr. Watson's finances through a power of attorney. None of this is disputed.
12. The parties agree that Mr. Watson's suite carpet was badly stained and needed replacement when he moved out. I agree, based on photos submitted by Nicola Meadows.

13. Sometime in early December 2019, Nicola Meadows deposited Mr. Watson's December 2019 cheque for \$2,255. It also held his previously paid damage deposit of \$987.50, for a total of \$3,242.50. None of this is disputed.
14. TW says that, in December 2019, VS told TW that it would cost \$1,918 to replace the carpet. TW says VS agreed to pay TW \$1,324.50, which I find is the difference between the money held by Nicola Meadows (\$3,242.50) and the quoted carpet replacement cost (\$1,918). VS does not dispute TW's submission on this point, so I find the conversation likely happened the way TW remembers it.
15. However, on January 24, 2020 Nicola Meadows issued a \$735.43 cheque to TW. Based on its January 24, 2020 receipt, I find Nicola Meadows deducted \$2,107.07 for carpet replacement costs, as well as a further \$400 for cleaning and damages, from the \$3,242.50 Nicola Meadows held. I find nothing turns on Nicola Meadows paying TW directly, rather than Mr. Watson, as TW undisputedly acted as Mr. Watson's agent in dealing with Nicola Meadows.
16. Mr. Watson says Nicola Meadows should not have deposited his December 2019 housing fee, because he had already moved out. He also says Nicola Meadows deducted other charges that neither Mr. Watson, nor TW, had agreed to pay. Neither party provided a copy of any written agreement or explained any verbal agreement they had about housing fees or damages upon move out. However, Nicola Meadows listed the December 2019 housing fee as a credit to Mr. Watson on its January 24, 2020 receipt. Based on this, and TW's undisputed conversation with VS, I find Nicola Meadows agreed it should refund the December 2019 housing fees to Mr. Watson, less any repair or damages costs.
17. To the extent that Mr. Watson claims reimbursement of November 2019 housing costs for the days he did not live at Nicola Meadows, I find he has not shown that he is entitled to any such reimbursement. This is because there is no copy of the parties' agreement, or any other evidence, which shows that Nicola Meadows agreed to refund Mr. Watson for any unused portion of his paid monthly housing fees. Unlike

the December 2019 housing fee, there is no evidence that Nicola Meadows agreed to return a portion of the November 2019 fees.

18. As noted, TW agreed on behalf of Mr. Watson that Nicola Meadows was entitled to its carpet replacement costs in December 2019. Although TW now says that he reluctantly agreed, I find no indication that his prior agreement was coerced or invalid.
19. Further, I find the carpet is badly stained and that it needs replacement. Based on the May 26, 2021 signed statement of Mr. Watson's former housekeeper, I find the stains cannot be removed and that Mr. Watson caused the stains by repeatedly spilling coffee and honey on his carpet. So, I agree with Nicola Meadows that Mr. Watson is responsible for the carpet replacement costs as he caused the stains and damage.
20. Mr. Watson submitted a January 24, 2020 estimate to Nicola Meadows from the Home Building Center for \$1,918 plus tax on the labour cost, to replace the carpet. This equals \$2,107.07. I find this estimate is consistent with VS' verbal estimate of \$1,918 and is the amount Nicola Meadows deducted from Mr. Watson's funds in its January 24, 2020 receipt. I find Nicola Meadows was entitled to deduct \$2,107.07 for carpet replacement costs from Mr. Watson's funds that it held.
21. I disagree with Nicola Meadows that it is entitled to payment of \$2,455.95 for carpet replacement. Although Nicola Meadows provided a March 31, 2021 quote from Kami Carpets, I find the January 24, 2020 estimate is a more accurate estimate of replacing the carpet around the time it was damaged, rather than 14 months later. Further, as noted below, Nicola Meadows has not filed a counterclaim against Mr. Watson and so I find is not entitled to payment of any further cleaning or replacement costs beyond the amount it already deducted from Mr. Watson's December 2019 payment and damage deposit.
22. I also find Nicola Meadows was entitled to deduct a further \$400 for extra cleaning costs and the cost of replacing a damaged blind and dresser, as listed in its January 24, 2020 receipt. Nicola Meadows provided photos of the damage, and the housekeeper addressed the need for extra cleaning due to spills, damage, and stains,

caused by Mr. Watson. Further, Mr. Watson has not disputed that he caused the identified damage or loss, or the amount of cleaning or replacement costs charged by Nicola Meadows.

23. Overall, I find Nicola Meadows has shown that Mr. Watson caused damage to his suite and some common areas that required extra cleaning or replacement costs. So, I find it was entitled to keep \$2,507.07 of the \$3,242.50 it held on Mr. Watson's behalf.
24. In his submissions Mr. Watson also claims Nicola Meadows overcharged him for daily mopping costs dating back to November 2018 and NSF fees he says Nicola Meadows' calculation errors caused in August 2019. These claims were not set out in Mr. Watson's Dispute Notice and so I find it would be procedurally unfair to consider them here because Nicola Meadows did not have proper notice about those claims and an opportunity to provide evidence or respond to them.
25. Mr. Watson has not explained how he is entitled to any further housing overcharge reimbursement. To the extent that his unreadable spreadsheet may set out any further overcharges he believes he is entitled to, I find Mr. Watson would still have failed to prove that Nicola Meadows was not entitled to charge those amounts or otherwise agreed to return those amounts to Mr. Watson. Overall, I find Mr. Watson has failed to prove Nicola Meadows overcharged him housing or cleaning fees.
26. It is undisputed that Nicola Meadows' staff confiscated Mr. Watson's 2 hunting knives from him. TW demanded their return in his December 8, 2020 letter to Nicola Meadows. As neither party provided any submissions or further evidence on the matter, it is unclear whether Nicola Meadows returned the knives to Mr. Watson or TW. However, Mr. Watson did not provide any evidence about the value of the knives or their replacement cost. As Mr. Watson provided no evidence about the value of the knives, I find his claim must fail because he has not proved his damages.
27. In its submissions, Nicola Meadows claims Mr. Watson owes it \$5,691.28 in damages for carpet replacement, extra cleaning, and odour abatement. As noted, Nicola Meadows did not file a counterclaim, although it had the opportunity to do so. As I

find Nicola Meadows does not owe Mr. Watson any refund or reimbursement, there is no amount Nicola Meadows can claim a set off amount against. So, I will not consider Nicola Meadows' claimed damages any further.

28. In its Dispute Response, Nicola Meadows says it owes Mr. Watson a total of \$108.64 "after all costs have been totalled". However, Nicola Meadows did not explain how it reached that total or provide any supporting evidence, such as account records. Based on the January 24, 2020 receipt it did provide, I find Nicola Meadows reimbursed Mr. Watson, through TW, the remainder of Mr. Watson's funds after deducting cleaning costs and replacement costs. I find Mr. Watson has failed to prove that Nicola Meadows was not entitled to do so. So, I dismiss Mr. Watson's claims.

29. As Mr. Watson was unsuccessful in his claims, I find he is not entitled to reimbursement for any CRT fees or dispute-related expenses. As the successful respondent, Nicola Meadows claimed no dispute-related expenses.

ORDER

30. I dismiss Mr. Watson's claims and this dispute.

Sherelle Goodwin, Tribunal Member