Civil Resolution Tribunal

Date Issued: January 12, 2022

File: SC-2021-004751

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hough v. Hattie,* 2022 BCCRT 40

B E T W E E N :

MICHAEL HOUGH

APPLICANT

A N D :

LEANNE HATTIE

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Shelley Lopez, Vice Chair

INTRODUCTION

1. This is a roommate dispute. The applicant, Michael Hough, says the respondent, Leanne Hattie, wrongfully evicted them and breached the parties' verbal agreement

that the applicant could have a pet dog in the rental unit. In this decision, I will refer to Michael Hough as "the applicant" because they did not provide a preferred pronoun or title when asked. The applicant claims a total of $4,234 in damages, as discussed further below.

2. Mrs. Hattie says she agreed to allow the applicant to rent with a pet only because they told her it was a guide dog, which the applicant denies. Mrs. Hattie says her landlord did not permit dogs and so she evicted the applicant with over 1 months' notice and refunded them two weeks' rent less $100 for helping them move.

3. The applicant is represented by an articling law student, Octavio Zertuche. Mrs. Hattie is self-represented.

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). 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 parties to a dispute that will likely continue after the dispute resolution process has ended.

5. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find I can fairly hear this dispute based on the submitted evidence and through written submissions.

6. Under CRTA section 42, 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 CRTA section 118, in resolving this dispute the CRT may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.

8. Generally, the CRT does not take jurisdiction over residential tenancy disputes, as these are decided by the Residential Tenancy Branch (RTB), which has exclusive jurisdiction to grant entitlements under the*Residential Tenancy Act* (RTA). However, the RTA does not apply to this dispute because the RTB refuses jurisdiction over roommate disputes like this one. Therefore, I find that this contractual dispute is within the CRT's small claims jurisdiction under section 118 of the CRTA.

ISSUES

9. The issues are whether:

    a. Mrs. Hattie wrongfully evicted the applicant or failed to give sufficient notice of the tenancy's termination, and

    b. The applicant is entitled to any of the claimed damages.

EVIDENCE AND ANALYSIS

10. In a civil claim like this one, the applicant has the burden of proving their claims, on a balance of probabilities (meaning "more likely than not"). I have only referenced below what I find is necessary to give context to my decision. I note the applicant chose not to provide a final reply submission, despite having an extended opportunity to do so.

11. In January 2021, the parties agreed that on February 1, 2021 the applicant would move into the property Mrs. Hattie and her husband J rented from a landlord. Mrs. Hattie's landlord and J are not parties to this dispute. There is no written rental agreement between the parties and also no documentation of the terms of the parties' tenancy agreement, such as in emails or text messages. There is no indication the parties agreed to a fixed-term lease. So, I find the applicant's tenancy

agreement was likely to be on a month-to-month basis. The applicant moved in early, on January 23, 2021, rather than on February 1, 2021. None of this is disputed.

12. In late February, following a complaint from the basement tenant, the landlord contacted Mrs. Hattie about the dog and said no dogs were allowed. Mrs. Hattie gave the applicant notice on February 22, 2021 that they would need to move out at the end of March 2021. The parties agree the applicant's pro-rated rent for the January 2021 tenancy was $180, which the applicant paid. The applicant also paid Mrs. Hattie the required $625 rent for each of February's rent and "last month's rent", which as noted was March 2021. The applicant moved out on March 14, 2021, with Mrs. Hattie's assistance. Again, none of this is disputed.

13. In short, the applicant says Mrs. Hattie wrongfully evicted them for having a dog and so they claim for various alleged moving-related expenses and a refund of their rent for February and March. As noted, Mrs. Hattie says she allowed the dog because the applicant told her it was a guide dog, which the applicant denies.

14. In the Dispute Notice filed at the outset of this dispute, the applicant broke down their $4,234 claim as follows (though the figures below add up to $4,534):

    a. $700 in "gas money", with $400 "for the first move" and $300 "for the second". I infer the "first" and "second" moves refer to their moving into and then out of Mrs. Hattie's home.

    b. $184 for filing a change of address twice ($92 each time).

    c. $2,000 for the "cost of movers".

    d. $1,250 for 2 months' rent.

    e. $400 for their "fixing parking", which refers to their laying gravel at the curb, which Mrs. Hattie says the applicant chose to do for his own benefit.

15. In the applicant's later submissions, they say they paid $950 in gas for their own and their movers' vehicles and $700 in cash for the movers' labour. The applicant says they spent 8 hours moving, at an "estimate rate of $50", which I infer refers to a $400 claim for their own time spent moving. The applicant says they spent $380 for gravel material and $400 of their own time at the same $50 hourly rate. They say they paid the $1,250 for "first and last month" rent plus the $180 for January. Leaving out the $180 for January rent, these figures add up to $4,080. There is no explanation for the inconsistency with the Dispute Notice breakdown.

16. In the applicant's submitted evidence, they only provided a typed breakdown, which again differs slightly from the above, and totals $4,880. Yet, as noted above in this dispute the applicant only claimed $4,234. Again, there is no explanation for the discrepancy. The applicant provided no supporting documentation, such as receipts for gas or postal address changes, statements from movers, or anything to support the claimed damages. There is no explanation for the significant "gas money" expense claim, and I find it does not have the ring of truth.

17. Further, the undisputed evidence is that the applicant lived in the property until they chose to move out on March 14, 2021. Mrs. Hattie had on February 22 given them until the end of March 2021 to move out, which was more than 30 days' notice. Further, Mrs. Hattie's undisputed evidence is that she refunded the applicant half a month's rent for March 2021 (less $100 I address below). I find no basis to refund any of the paid rent for January to March 2021. I find 30 days' notice reasonable in the circumstances and I find no basis to refund rent for days when the applicant lived on the property.

18. Next, the applicant admits Mrs. Hattie's family members assisted with the applicant's move-out and the applicant does not dispute the labour involved in their doing so. I find it reasonable in the circumstances that Mrs. Hattie deducted $100 for that assistance, which the applicant did not directly address. I also say this because I find Mrs. Hattie would have been entitled to keep all of March's rent since it was the applicant's choice to leave earlier in mid-March.

19. It is also undisputed that it was the applicant's idea to lay gravel for his own benefit, though I acknowledge the applicant describes this as repairing the driveway. I find no basis to require Mrs. Hattie to compensate the applicant for that work. The contemporaneous text message in evidence between Mrs. Hattie and her landlord show that her (and the landlord's) expectation was that the applicant would pay to lay the gravel because they wanted to put it down to make it less muddy.

20. So, given all the above, I find the applicant has failed to prove any damages and I dismiss their claim on that basis alone.

21. I note that in one of the applicant's text messages to Mrs. Hattie after they moved out, the applicant referred to being disabled, which I find supports Mrs. Hattie's understanding that the dog was a guide dog. However, even if the applicant had not told Mrs. Hattie their dog was a guide dog, I find Mrs. Hattie gave the applicant reasonable notice to end the tenancy. So, regardless of the dog issue, I find Mrs. Hattie did not wrongfully evict the applicant.

22. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. Neither party paid CRT fees nor claimed dispute-related expenses, so I make no order about them.

ORDER

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

Shelley Lopez, Vice Chair