



# Civil Resolution Tribunal

Date Issued: January 28, 2022

File: SC-2021-005401

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sayers v. Blumenthal*, 2022 BCCRT 107

BETWEEN:

ROBERT SAYERS

**APPLICANT**

AND:

MATHILDE BLUMENTHAL

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. This dispute is about rent shared between roommates.

2. The applicant, Robert Sayers, says the respondent, Mathilde Blumenthal, failed to pay her share of the rent for July 2021 after moving out. He seeks \$1,000, representing 1/3 of the total \$3,000 monthly rent.
3. Ms. Blumenthal says she was not required to pay July's rent for various reasons, including that she moved out months earlier and the landlord never asked her to pay July's rent.
4. Mr. Sayers is self-represented. Ms. Blumenthal is represented by a family member who is not a lawyer.

## **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.
9. Generally, the CRT does not have jurisdiction over residential tenancy disputes, which are within the exclusive jurisdiction of the Residential Tenancy Branch (RTB) under the *Residential Tenancy Act* (RTA). However, the RTB declines jurisdiction over roommate disputes like this one, and the parties do not say the RTA applies to this dispute. Therefore, I find that this contractual dispute is within the CRT's small claims jurisdiction under CRTA section 118.

## **ISSUE**

10. The issue in this dispute is whether Ms. Blumenthal owes Mr. Sayers \$1,000 for her share of the July 2021 rent.

## **EVIDENCE AND ANALYSIS**

11. As the applicant in this civil proceeding, Mr. Sayers must prove his claim on a balance of probabilities, meaning more likely than not. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
12. It is undisputed that the parties were co-tenants, along with a third roommate, AC, under a tenancy agreement with a landlord. AC and the landlord are not parties to this CRT dispute.
13. The tenancy agreement began July 1, 2020 and was for a fixed term ending June 30, 2021, after which it continued on a month-to-month basis unless the tenants gave 1 month's notice. The monthly rent was \$3,000.
14. The evidence shows that the roommates generally each paid \$1,000 per month directly to the landlord. Despite this, I find under the tenancy agreement that each co-tenant was jointly responsible to the landlord for the full \$3,000 rent. In addition, the roommates undisputedly had a verbal agreement to contribute \$1,000 each to the

rent. I find the result is that if any roommate failed to pay the landlord rent, the others, making up the shortfall, had a right to recover from the defaulting roommate for breach of the verbal roommate agreement.

15. It is undisputed that Ms. Blumenthal moved to Whistler in November 2019 and her roommates (and the landlord) agreed she could sublet the room, subject to their approval of the new roommate. Ms. Blumenthal never did sublet the room. Instead she continued to pay rent and used the room to store belongings.
16. In late June 2021, Mr. Sayers and Ms. Blumenthal exchanged text messages about July's rent. Ms. Blumenthal said she was under the impression the lease ended at the end of June, so she did not need to pay July's rent. Mr. Sayers advised that Ms. Blumenthal needed to give the landlord 1 month's notice. After viewing an excerpt of the tenancy agreement, Ms. Blumenthal agreed that she would pay rent to the landlord for July, but that would be her final month of paying rent. However, Ms. Blumenthal did not pay July's rent to the landlord.
17. It is undisputed that Mr. Sayers and AC continued to rent the unit from the landlord in July 2021 and beyond. Mr. Sayers says he had to cover July's rent for Ms. Blumenthal. There is no direct evidence, such as an e-transfer receipt, to confirm this. However, email correspondence shows that in early July the landlord asked Mr. Sayers about Ms. Blumenthal's rent and reminded him that each co-tenant was responsible for the full \$3,000 rent under the tenancy agreement. On balance, I find that Mr. Sayers likely made up the \$1,000 shortfall as required under the tenancy agreement.
18. With that, I reject Ms. Blumenthal's argument that she was not required to pay July's rent simply because the landlord did not ask her directly to pay it. She was obligated to pay it by the tenancy agreement and her promise to Mr. Sayers.

19. As Ms. Blumenthal did not give adequate notice and undisputedly agreed to pay July's rent, I order her to pay Mr. Sayers \$1,000.
20. The *Court Order Interest Act* applies to the CRT. Mr. Sayers is entitled to pre-judgment interest on the \$1,000 from July 1, 2021 to the date of this decision. This equals \$2.61.
21. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to recover their CRT fees and reasonable dispute-related expenses. Mr. Sayers was successful, so I find he is entitled to reimbursement of \$125 in CRT fees. Neither party claimed any dispute-related expenses.

## **ORDERS**

22. Within 14 days of the date of this order, I order Ms. Blumenthal to pay Mr. Sayers a total of \$1,127.61, broken down as follows:
  - a. \$1,000.00 in debt for July 2021 rent,
  - b. \$2.61 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$125.00 in CRT fees.
23. Mr. Sayers is entitled to post-judgment interest, as applicable.
24. 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.

25. 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.

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Micah Carmody, Tribunal Member