



# Civil Resolution Tribunal

Date Issued: February 25, 2022

File: SC-2021-006631

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sadeghmoghaddam v. Reddy*, 2022 BCCRT 206

BETWEEN:

NONA SADEGHMOGHADDAM

**APPLICANT**

AND:

TINA REDDY

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## INTRODUCTION

1. This is a roommate dispute. The applicant Nona Sadeghmoghaddam agreed to rent a room from the respondent Tina Reddy, with an August 1, 2021 move-in date. The respondent had rented the house from a landlord who is not a party to this dispute. As detailed below, the applicant says the respondent misrepresented the home's

actual living arrangements and changed the terms of their agreement. The applicant says as a result she told the respondent she would not move in. The respondent undisputedly refused to refund the \$150 security deposit and the \$630 in rent the applicant had paid when signing the agreement. The applicant claims reimbursement of the \$780.

2. The respondent denies changing or misrepresenting the home's living arrangement or any of the agreement's terms. The respondent says the applicant changed her mind about moving in so late that the applicant could not find another tenant for August 2021. The respondent says she owes nothing.
3. The parties are each 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 by 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. In general, residential tenancy disputes 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. So, I find the RTA does not apply and that this is a contractual roommate dispute within the CRT's small claims jurisdiction.

## **ISSUE**

9. The issue is whether the applicant is entitled to reimbursement of any of her paid \$150 security deposit or paid \$630 August rent.

## **EVIDENCE AND ANALYSIS**

10. In a civil claim like this one, the applicant has the burden of proving her claims, on a balance of probabilities (meaning "more likely than not"). I have read all the parties' submissions but refer only to the evidence and arguments that I find relevant to provide context for my decision. I note the respondent did not provide any documentary evidence or written submissions, despite having the opportunity to do so. My comments about the respondent's position below are based on her detailed Dispute Response filed at the outset of this proceeding.
11. In summer 2021, the applicant agreed to rent a room from the respondent, in a house the respondent rented from her landlord. The parties had no written contract and there are no text messages or emails in evidence describing the terms of their agreement. None of this is disputed. More on the agreement below.

12. On July 4, 2021, the applicant e-transferred the respondent \$150 with the message "Damage Deposit from Nona". On July 27, 2021, the applicant e-transferred the respondent \$630 with the message "August rent". This is undisputed and is supported by e-transfer records in evidence, which were the only documentary evidence items submitted by the applicant.
13. What is in dispute is whether the applicant told the respondent when they made their rental agreement that she wanted an "all female non-smoking" rental accommodation, which the respondent denies. While the respondent did not submit a copy of her Craigslist advertisement, she quoted it at length in her Dispute Response. The applicant did not challenge this and so I accept that the respondent did not advertise it was an all-female household or that none of the occupants smoked.
14. As noted, the respondent denies that the applicant ever told her at the outset she wanted only a non-smoking or an all-female house. That said, the respondent admits that when the applicant later came to get the keys, the respondent mentioned as a courtesy that her boyfriend would be over 2 to 3 times a week. The respondent says she told the applicant the boyfriend did not sleep over and that the applicant responded, "OK". The respondent also admits that she smokes but only outside. The respondent further admits she asked the applicant not to cook "too late" in the evening, and again says that the respondent said, "OK".
15. On balance, I find the parties' respective positions about what the agreement terms were are both equally likely. As noted, the applicant has the burden of proof. I find it unproven that all-female and "no smoking" were terms of the parties' agreement. I also find the respondent's admitted request that the applicant try and not cook too late is not proven as an occupancy condition but rather a request for consideration among roommates.

16. Further, while the applicant says she did not feel safe moving in, she did not explain why. I also note her submission changed from her initial claim, in that she now says the respondent said she “prefers” rather than required the applicant to leave the house when the respondent’s boyfriend was there.
17. Next, the respondent’s Dispute Response detailed how the applicant changed her mind about wanting to move elsewhere to live with a friend. The applicant did not address that at all in her submission. I find this does not support the applicant’s position that the respondent unreasonably made the applicant feel unsafe or breached the parties’ agreement.
18. I turn then to whether the applicant is entitled to the claimed refunds. I find she is entitled to the \$150 security deposit because she undisputedly never moved in and because I find that deposit was likely paid in case of damage during occupancy. I note the respondent did not specifically address the deposit in her Dispute Response.
19. I dismiss the applicant’s claim for the \$630 for August rent. I accept the respondent’s statement that she was unable to find a new tenant for August. I find an implied term of the parties’ rental agreement was that each party would give the other reasonable notice of termination of the agreement. I find the applicant’s notice on July 28 was not reasonable or sufficient time for the respondent to find a new tenant. I find the applicant therefore owed the August rent under the agreement and so she is not entitled to its return. I dismiss the \$630 claim.
20. The *Court Order Interest Act* (COIA) applies to the CRT. I find the applicant is entitled to pre-judgment COIA interest on the \$150. Calculated from the July 4, 2021 payment date to the date of this decision, this interest equals \$0.44.
21. 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 for them.

## **ORDERS**

22. Within 30 days of this decision, I order the respondent to pay the applicant \$150 in debt and \$0.44 in pre-judgment interest under the COIA, for a total of \$150.44.
23. The applicant 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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Shelley Lopez, Vice Chair