



Civil Resolution Tribunal

Date Issued: April 25, 2022

File: SC-2021-009379

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Dale v. Waterfield*, 2022 BCCRT 477

BETWEEN:

PETER DALE

APPLICANT

AND:

RODNEY WATERFIELD

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This is a roommate dispute. The applicant, Peter Dale, rented a room from the respondent, Rodney Waterfield, with a November 1, 2021 move-in date. Mr. Dale says the parties did not get along, and so he moved out on November 5, 2021. Mr.

Dale seeks the return of November's rent (\$675) and his security deposit (\$675), for a total of \$1,350.

2. Mr. Waterfield says Mr. Dale left without giving proper notice under the terms of their tenancy agreement, so he says Mr. Dale is not entitled to the return of rent or the security deposit. Mr. Waterfield asks that this dispute be dismissed.
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). 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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. Section 39 of the CRTA says that 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.
6. Section 42 of the CRTA says that 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 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.

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 because section 4 of the RTA says tenancy agreements where the tenant shares a kitchen or bathroom with the landlord are excluded from the RTA. So, I find the RTA does not apply and this is a contractual roommate dispute within the CRT's small claims jurisdiction.

ISSUE

9. The issue in this dispute is whether Mr. Dale is entitled to reimbursement for November 2021 rent or for his security deposit.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, as the applicant Mr. Dale must prove his claims on a balance of probabilities (meaning "more likely than not"). While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
11. In October 2021, Mr. Dale agreed to rent a room in Mr. Waterfield's trailer. The parties had a written tenancy agreement, signed by Mr. Dale's agent, GD, and Mr. Waterfield. It is undisputed GD signed the agreement on Mr. Dale's behalf as Mr. Dale was out of town.
12. The October 7, 2021 tenancy agreement states that rent was \$675 per month including utilities, with one month's rent payable as a security deposit before moving in. It is undisputed Mr. Dale paid Mr. Waterfield a total of \$1,350 before moving in on November 1, 2021. Among other things, the agreement stated that if Mr. Dale were to end the tenancy without 1 month's notice, Mr. Waterfield was entitled to keep the security deposit.

13. Shortly after moving in, the parties did not get along. It is undisputed that Mr. Dale voluntarily left, and Mr. Waterfield specifically says he told Mr. Dale that if he left he would forfeit his security deposit because there was not enough notice. Mr. Dale does not deny this. Mr. Dale moved out on November 5, 2021.
14. Mr. Dale says he is entitled to the return of November's rent and his security deposit because he says Mr. Waterfield breached the parties' agreement by continuing to advertise the room for rent after Mr. Dale moved in, and at a higher rent of \$700 per month. Mr. Waterfield says he merely forgot to take the advertisement down once Mr. Dale moved in, and he had no intention to, and did not actually, rent the room to anyone else while Mr. Dale was supposed to be living there. I do not find Mr. Waterfield breached the parties' agreement by leaving the advertisement up.
15. So, is Mr. Dale entitled to any refund? As noted, Mr. Dale is bound by the terms of the tenancy agreement he had GD sign on his behalf. The agreement states that if less than 1 month's notice is given, Mr. Waterfield would keep the security deposit. Mr. Dale agreed to this term. As Mr. Dale moved out on November 5, 2021, 1 month's notice would require him to pay until the end of December 2021. Therefore, I find Mr. Waterfield was entitled to keep Mr. Dale's \$675 security deposit to be used towards December's rent.
16. As noted above, Mr. Dale left Mr. Waterfield's home voluntarily. I find Mr. Dale is the one who breached the tenancy agreement, and is therefore not entitled to a refund of November's rent because he elected to leave early. I dismiss Mr. Dale's claims.
17. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As Mr. Dale was not successful, I find that he is not entitled to reimbursement of his paid tribunal fees. Mr. Waterfield did not pay any tribunal fees or claim any dispute-related expenses.

ORDER

18. I order Mr. Dale's claims, and this dispute, dismissed.

Andrea Ritchie, Vice Chair