



# Civil Resolution Tribunal

Date Issued: June 17, 2022

File: SC-2021-005959

Type: Small Claims

Civil Resolution Tribunal

Indexed as *Jessamine v. Sutherland*, 2022 BCCRT 714

B E T W E E N :

KELSI JESSAMINE

**APPLICANT**

A N D :

JUSTIN SUTHERLAND and KRISTY HART

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Richard McAndrew

## INTRODUCTION

1. This dispute is about a room rental agreement. The applicant, Kelsi Jessamine, rented a room from the respondent, Justin Sutherland. The respondent, Kristy Hart, also rented a room at the property. Ms. Jessamine claims that she was forced to move out with insufficient notice because Ms. Hart threatened her. Ms. Jessamine claims \$1,600 for short-term accommodations, \$229.46 for hotel accommodations,

\$162.50 in unused rent, \$650 for missed work, \$819 for dog boarding expenses, and \$403.72 for storage expenses.

2. The respondents deny Ms. Jessamine's claims. Mr. Sutherland says that Ms. Jessamine voluntarily moved out. Ms. Hart says that Ms. Jessamine started the personal argument by allegedly threatening Ms. Hart's dog.
3. All parties in this dispute are 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 the dispute's parties that will likely continue after the CRT process has ended.
5. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. Though I found that some aspects of the parties' submissions called each other's credibility into question, I find I am properly able to assess and weigh the documentary evidence and submissions before me without an oral hearing. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always necessary when credibility is in issue. Further, bearing in mind the CRT's mandate of proportional and speedy dispute resolution, I decided I can fairly hear this dispute through written submissions.
6. 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.

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. Generally, the CRT does not take jurisdiction over residential tenancy disputes, as these are decided by the Residential Tenancy Branch (RTB). However, the *Residential Tenancy Act* (RTA) does not apply here because the RTB refuses jurisdiction over roommate disputes like this one. Therefore, I find this dispute is within the CRT's small claims jurisdiction, as set out in section 118 of the CRTA.

## **ISSUE**

9. The issue in this dispute is whether the respondents breached Ms. Jessamine's room rental agreement by ending her tenancy without providing sufficient notice by allegedly threatening her.

## **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, Ms. Jessamine, as the applicant, must prove her claims on a balance of probabilities, meaning "more likely than not." I have read all the parties' submissions and evidence but refer only to what I find relevant to provide context for my decision. Neither of the respondents provided any evidence or submissions, though they had the opportunity to do so. However, the respondents each filed a Dispute Response, which I have considered in making this decision.
11. It is undisputed that Mr. Sutherland leased a house from individuals who are not parties in this dispute and that he remained in the house and rented rooms to multiple individuals, including Ms. Jessamine and Ms. Hart. Based on a July 12, 2020 text message adding Ms. Jessamine to the roommates' text message group, I find that Ms. Jessamine moved in at that time. Further, I find that Ms. Hart moved in and rented a room on approximately March 5, 2021 based on Mr. Sutherland's group text message sent on that date.

### ***Ms. Jessamine's claim against Mr. Sutherland***

12. Ms. Jessamine says that she needed to move out because Ms. Hart allegedly threatened her and she claims that Mr. Sutherland failed to support her. Ms. Jessamine claims that, as a result, the respondents breached the rental agreement by effectively ending her tenancy with insufficient notice.
13. In contrast, in his Dispute Response, Mr. Sutherland said that he did not ask Ms. Jessamine to move out. Rather, he says Ms. Jessamine and Ms. Hart had an argument about their dogs on July 23, 2021 and Ms. Jessamine told him on July 24, 2021 that she would move out at the end of the month. Mr. Sutherland says that Ms. Jessamine later changed her mind and told him on July 26, 2021 that she was not leaving. However, he says that she had already ended her rental agreement and he had already agreed to rent her room to a new tenant by then.
14. Ms. Jessamine provided multiple witnesses statements and video files relating to her interactions with Ms. Hart. Ms. Jessamine's neighbour, GB wrote an October 31, 2021 statement saying that they saw Ms. Hart get very angry and yell at Ms. Jessamine in their backyard on July 23, 2021. GB says this argument related to their dogs. AM wrote a November 29, 2021 statement saying that they went to the property with Ms. Jessamine on July 26, 2021 to help her move out. However, AM says that they needed to call for police assistance because Ms. Hart was very aggressive and threatening. AM wrote that she and Ms. Jessamine needed to stay in a hotel for 2 nights because it was unsafe to stay at the property. AS wrote an undated statement saying that they went to the property on July 28, 2021 to help Ms. Jessamine move out. AS says that Ms. Hart yelled at Ms. Jessamine to leave and used threatening language.
15. I find that the witnesses statements and video files show that Ms. Hart was hostile to Ms. Jessamine and that Ms. Hart asked Ms. Jessamine to move out. However, there is no evidence or submissions showing that Ms. Hart had any authority to end Ms. Jessamine's tenancy. Since Ms. Jessamine was renting her room from Mr. Sutherland, I find that only Mr. Sutherland could end Ms. Jessamine's tenancy.

However, none of the witnesses say that Mr. Sutherland asked Ms. Jessamine to move out.

16. Further, there is no evidence or submissions showing that Mr. Sutherland authorized Ms. Hart to act as his agent or that his conduct could reasonably be considered to have granted Ms. Hart apparent authority to act as his agent. So, I find that Ms. Hart could not end Ms. Jessamine's tenancy on Mr. Sutherland's behalf.
17. In the absence of supporting evidence, I find that Ms. Jessamine has not proved that Mr. Sutherland breached the contract by forcing her to move out. Further, I find that Ms. Jessamine has not proved that Mr. Sutherland had a contractual duty to "support" her in relation to Ms. Hart's alleged conduct. So, I dismiss Ms. Jessamine's claims against Mr. Sutherland for breach of the rental agreement. Further, since Ms. Jessamine has not proved that Mr. Sutherland ended the rental agreement, I find that Ms. Jessamine has not proved that she is entitled to a partial rent refund.

***Ms. Jessamine's claim against Ms. Hart***

18. As discussed above, I find that Ms. Hart was not a party to Ms. Jessamine's room rental agreement. So, I find that Ms. Hart did not have any responsibilities under that contract. As such, Ms. Hart cannot be held responsible for allegedly breaching the room rental agreement.
19. For the above reasons, I dismiss Ms. Jessamine's claims.

***CRT fees and expenses***

20. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. Since Ms. Jessamine was unsuccessful, I find that he is not entitled to reimbursement of her CRT fees. Neither party claimed reimbursement of dispute-related expenses.

## **ORDER**

21. I dismiss Ms. Jessamine's claims and this dispute.

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Richard McAndrew, Tribunal Member