



Civil Resolution Tribunal

Date Issued: July 8, 2022

File: SC-2021-003107

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Giraud v. Extra Storage Now Corp.*, 2022 BCCRT 784

B E T W E E N :

ALEXANDER GIRAUD

APPLICANT

A N D :

EXTRA STORAGE NOW CORP.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Nav Shukla

INTRODUCTION

1. This is a small claims dispute about a storage locker. The applicant, Alexander Giraud, says that the respondent, Extra Storage Now Corp. (Extra Storage), wrongfully locked him out of his storage locker and overcharged him for storage fees. Mr. Giraud claims \$5,000 for lost earnings during the time he was unable to access

his work tools in the storage locker, as well as reimbursement for alleged overcharged storage fees.

2. Extra Storage says that it was entitled to deny Mr. Giraud access to the storage locker under the parties' agreement because he was in default for failing to make the monthly rental payments. It further denies that it overcharged Mr. Giraud. Extra Storage also says that Mr. Giraud's claims are out of time under the *Limitation Act* (LA) and should be dismissed.
3. Mr. Giraud represents himself. Extra Storage is represented by its manager.

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. 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. Some of the evidence in this dispute amounts to a "he said, they said" scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38,

the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue.

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.

Late Evidence

8. Both parties in this dispute submitted evidence and submissions after the CRT's deadlines. The parties take issue with the other party's late evidence and allege certain evidence is false or fabricated. Mr. Giraud also takes issue with some of Extra Storage's late evidence because it is not notarized. As mentioned, CRTA section 42 allows me to accept evidence that is relevant, necessary, and appropriate. Such evidence is not required to be notarized in order to be admissible.
9. Mr. Giraud also says that Extra Storage's late evidence is inadmissible because it contains personal information about its clients who have not consented to its release. However, I note that CRT rule 8.1 requires a party to disclose all evidence that is in their possession that may prove or disprove an issue in the dispute. So, if the evidence is relevant to the dispute, the parties are required to disclose it. If Extra Storage had concerns about these documents containing personal information that was not relevant to this dispute, it was entitled to redact such information, which I note it did in some of its documents.
10. With that in mind, I find that the late evidence submitted by the parties is relevant to this dispute. Since the parties have had the opportunity to consider and respond to the other's late evidence and late submissions, I find it appropriate to admit it all, which is consistent with the CRT's flexible mandate. I have considered the allegations

raised by the parties about some of this late evidence being false or fabricated and address the weight I give to that evidence below.

ISSUES

11. The issues in this dispute are:

- a. Are Mr. Giraud's claims out of time under the LA?
- b. If not, did Extra Storage wrongfully restrict Mr. Giraud's access to the storage locker and overcharge him for storage fees?

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, the applicant, Mr. Giraud must prove his claims on a balance of probabilities (meaning "more likely than not"). I have read all the parties' submitted evidence and argument but refer only to what I find relevant to provide context for my decision.

Limitation Period

13. As mentioned, in its submissions, Extra Storage says Mr. Giraud's claims are barred under the LA for being out of time. Mr. Giraud did not address the LA issue raised by Extra Storage, despite having the opportunity to do so in reply submissions.

14. The LA applies to disputes before the CRT. The LA sets out limitation periods, which are specific time limits for pursuing claims. If the time limit expires, the right to bring the claim disappears, and the claim must be dismissed.

15. Section 6 of the LA says that the basic limitation period is 2 years, and that a claim may not be started more than 2 years after the day on which it is discovered. Mr. Giraud submitted his CRT dispute application on April 18, 2021. So, in order for his claims to be in time, he must have discovered them on or after April 18, 2019.

16. This dispute centers around a January 2, 2019 rental payment. It is undisputed that Mr. Giraud was required to pay Extra Storage \$101.85 by January 2, 2019. It is also undisputed that Mr. Giraud delivered a payment to Extra Storage on January 2, 2019 after business hours by putting an unsealed envelope through Extra Storage's mail slot. Mr. Giraud says the envelope contained \$102 for the full rental payment. Extra Storage says that the payment was \$20 short.
17. The evidence shows that Extra Storage blocked Mr. Giraud's access to the storage locker on January 27, 2019 due to Mr. Giraud's alleged failure to make the January 2, 2019 payment in full. The evidence includes emails from February 3, 2019 to February 13, 2019 between Mr. Giraud and Extra Storage. Based on Mr. Giraud's February 6, 2019 email, it is clear that by this date, Mr. Giraud knew that Extra Storage had restricted his access to the storage locker. In Mr. Giraud's February 13, 2019 email, he said that Extra Storage was illegally detaining his belongings. Based on these emails, I find that by February 13, 2019, Mr. Giraud knew he had a possible claim against Extra Storage for denying him access to his belongings in the storage locker. Since Mr. Giraud submitted his CRT application more than 2 years after February 13, 2019, I find Mr. Giraud's lost earnings' claim for not being able to access his work tools in the storage locker to be out of time.
18. This leaves Mr. Giraud's claim for the alleged overcharges. Mr. Giraud says that he cancelled his contract with Extra Storage on February 3, 2019 and that he made a \$182 payment in February 2019, but Extra Storage continued to charge him rent. He says he was not allowed to access the storage locker until after May 17, 2019 when he paid a further \$466 that Extra Storage wrongfully charged him. Extra Storage says that Mr. Giraud made his final \$182 payment on February 28, 2019 and that he moved out of the storage locker on March 1, 2019 after making this payment.
19. The relevant evidence is as follows. On February 3, 2019, Mr. Giraud emailed Extra Storage and said that he disagreed with Extra Storage's claim that his January 2, 2019 payment was \$20 short and was terminating the agreement.

20. Based on a February 28, 2019 payment receipt that is in evidence, I find that Mr. Giraud made a \$182 payment to Extra Storage on February 28, 2019. The payment receipt stated that Mr. Giraud's account had been "paid thru" to February 26, 2019 and noted a remaining balance of \$101.55. According to Extra Storage's notes' history that is in evidence, Extra Storage reversed the lock out on Mr. Giraud's storage locker on February 28, 2019 and he moved out on March 1, 2019. However, as noted above, Mr. Giraud says that despite making this \$182 payment, Extra Storage continued to deny him access to the storage locker.
21. Mr. Giraud relies on a May 17, 2019 payment receipt for \$466.00 in support of his allegation that Extra Storage continued to wrongly charge him rent after March 1, 2019. This document is part of Mr. Giraud's late evidence that Extra Storage takes issue with. Extra Storage says that this document is false and was not issued by it. It notes mathematical errors in the receipt as well as duplicate charges.
22. In support of its position that Mr. Giraud had moved out by March 1, 2019, Extra Storage relies on the late evidence it provided. This evidence includes receipt details from May 17, 2019 which show the payments Extra Storage received on that day. No payments matching Mr. Giraud's alleged \$466 payment are listed on this document. The late evidence also includes a unit history that shows the subject storage locker was occupied by another individual from March 31, 2019 to June 20, 2019. Lastly, Extra Storage's late evidence includes a July 27, 2019 payment receipt for another customer that had the same receipt number as the May 17, 2019 payment receipt submitted by Mr. Giraud.
23. Mr. Giraud says Extra Storage has fabricated this late evidence in order to further itself in this dispute. However, I find there is no evidence to prove that these documents are fabricated. So, I find Mr. Giraud's allegation that Extra Storage fabricated this evidence to further its claim is speculative and give it no weight. I find the May 17, 2019 payment receipt is unreliable due to the above-mentioned mathematical errors and duplicate charges. I also note that the rental periods listed on this receipt do not match the 28-day rental period set out in the parties' agreement

that is in evidence. For these reasons, I prefer and give more weight to Extra Storage's evidence over Mr. Giraud's on this point. In short, I find that there is no reliable evidence showing that Mr. Giraud made any payments to Extra Storage after February 28, 2019. Since I have found that the last payment Mr. Giraud made to Extra Storage was the \$182 payment on February 28, 2019, I find that Mr. Giraud's claim that Extra Storage overcharged him is also out of time since Mr. Giraud should have known he had a claim for the alleged overcharges on February 28, 2019, the date he made the final payment.

24. So, I dismiss Mr. Giraud's claims for being out of time under the LA.
25. 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 Mr. Giraud was unsuccessful in this dispute, I dismiss his claim for CRT fees. He did not claim any dispute-related expenses. Extra Storage was successful in this dispute but did not claim any CRT fees or dispute-related expenses.

ORDER

26. I dismiss Mr. Giraud's claims and this dispute.

Nav Shukla, Tribunal Member