



# Civil Resolution Tribunal

Date Issued: October 5, 2022

File: SC-2022-000831

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Podrebersek v. Spouse*, 2022 BCCRT 1093

BETWEEN:

ALEXANDER PODREBERSEK

**APPLICANT**

AND:

LAUREN SPOUSE

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kristin Gardner

## INTRODUCTION

1. This is a roommate dispute. The applicant, Alexander Podrebersek, rented a room from the respondent, Lauren Spouse. Mr. Podrebersek says Ms. Spouse returned only \$87.50 of his paid \$437.50 damage deposit when he moved out. Mr. Podrebersek claims \$350 for the outstanding balance of his paid damage deposit.

2. Ms. Spouse says Mr. Podrebersek is not entitled to the return of his whole damage deposit because he was responsible for a significant increase in the electricity bills while he lived with her.
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 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. In some respects, both parties to this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 28, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to 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* 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 over debt and damages, as set out in CRTA section 118.
9. Ms. Spouse submitted 2 items of evidence described as "screen shots", that were both documents containing several hundred pages of what appears to be computer code. Bearing in mind the CRT's mandate that includes speed, efficiency, and proportionality, I decided not to ask Ms. Spouse to clarify or re-submit these documents because I find they would not have impacted my ultimate decision. This is because my decision turns on the fact that the damage deposit was paid to cover damage and not increased utility charges. It is undisputed there was no damage, and Ms. Spouse's sole defence is that Mr. Podrebersek allegedly increased the electricity bills. At the same time, I find Mr. Podrebersek is not prejudiced by this approach because my ultimate decision is in his favour.

## **ISSUE**

10. The issue in this dispute is whether Mr. Podrebersek is entitled to the return of \$350 as the outstanding balance of his damage deposit.

## **EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, the applicant Mr. Podrebersek must prove his claims on a balance of probabilities (meaning "more likely than not"). I have read all of the parties' evidence and submissions, but I refer only to what I find is necessary to explain my decision.

12. In about July 2021, Mr. Podrebersek agreed to rent a room from Ms. Spouse, in a suite that Ms. Spouse rented from her landlord, RS. The parties did not have a written contract, and there is no evidence before me, such as text messages or emails, describing the terms of their agreement. However, it is undisputed that Mr. Podrebersek paid Ms. Spouse a \$437.50 damage deposit and \$875 per month for rent. Mr. Podrebersek says that his rent also included internet and utilities. I accept this is true, as Ms. Spouse does not dispute it and there is no evidence to the contrary.
13. Ms. Spouse gave Mr. Podrebersek an eviction notice on December 1, 2021, to move out by the end of that month. After Mr. Podrebersek moved out, Ms. Spouse refunded him only \$87.50 of his damage deposit. None of this is disputed. I also note this dispute is not about the eviction or the amount of notice given. Only the damage deposit is at issue.
14. Mr. Podrebersek says he left his bedroom and bathroom in “excellent shape” and that he caused no damage to those rooms or the kitchen or floors in any of the common areas. As noted, Ms. Spouse does not allege that Mr. Podrebersek caused any damage. Rather, she says that she deducted \$350 from his damage deposit solely because she alleges he was responsible for increased utilities usage during his tenancy. Specifically, she says that Mr. Podrebersek missed a lot of work and was at home for almost the entire month of December 2021, so he used more electricity.
15. However, as noted, I find Mr. Podrebersek’s rent was inclusive of utilities. There is no evidence of any agreement between the parties that Mr. Podrebersek would be responsible for increased utilities costs during his tenancy. In other words, even if Mr. Podrebersek used more electricity or other utilities than Ms. Spouse expected, I find she was not entitled to charge Mr. Podrebersek more unless the parties agreed to it.
16. Further, a commonly understood purpose of a damage deposit is to compensate a landlord for loss if the tenant leaves the rental accommodation unclean or damaged beyond normal wear and tear. I find that was the purpose of Mr. Podrenersek’s paid damage deposit here, as there is no evidence the parties agreed to something different.

17. Given there is no suggestion that Mr. Podrebersek left the suite dirty or damaged, I find Ms. Spouse must return the \$350 balance of Mr. Podrebersek's damage deposit.
18. Mr. Podrebersek expressly says he does not claim pre-judgment interest, so I make no order for it.
19. 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. Neither party paid any fees, nor claimed any dispute-related expenses, so I make no order.

## **ORDERS**

20. Within 14 days of the date of this decision, I order the respondent, Lauren Spouse, to pay the applicant, Alexander Podrebersek, \$350 in debt for return of the outstanding balance of his damage deposit.
21. Mr. Podrebersek is entitled to post-judgment interest, as applicable.
22. 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. 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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Kristin Gardner, Tribunal Member