



Civil Resolution Tribunal

Date Issued: October 19, 2022

File: SC-2022-001645

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Storey v. Preston*, 2022 BCCRT 1143

BETWEEN:

HAILEIGH STOREY

APPLICANT

AND:

BRITTNEY PRESTON

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Nav Shukla

INTRODUCTION

1. This dispute is about shared accommodation. The respondent, Brittney Preston, rented a room from the applicant, Haileigh Storey. Mrs. Storey says that Miss Preston breached the parties' agreement by failing to give proper notice before moving out. Mrs. Storey claims \$650 for unpaid rent for the month of March 2022.

2. Miss Preston says that she gave proper notice as required under the parties' agreement. She also says that Mrs. Storey kept her \$325 deposit which covers the remaining rent she owed Mrs. Storey. Miss Preston says she does not owe Mrs. Storey anything further.
3. Both parties are self-represented in this dispute.

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. 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 in the interests of justice.
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.

Preliminary Issues

Jurisdiction

8. Generally, the CRT does not have jurisdiction over residential tenancy disputes, which are decided by the Residential Tenancy Branch (RTB) under the *Residential Tenancy Act* (RTA). However, section 4 of the RTA says the RTA does not apply to disputes where a tenant shares a kitchen or bathroom with the landlord. It is undisputed that the parties in this dispute shared a kitchen and bathroom. So, I find this dispute falls within the CRT's small claims jurisdiction set out in section 118 of the CRTA.

Evidence

9. Miss Preston submitted evidence that I was unable to view. At my request, CRT staff asked Miss Preston to resubmit the evidence in a different format. The resubmitted evidence included 6 photographs of sticky notes that Mrs. Storey undisputedly left around the house. Mrs. Storey's response to the resubmitted evidence essentially reiterated her previous written submissions about the sticky notes. Since Mrs. Storey had an opportunity to review and respond to the resubmitted evidence, I find that neither party has been prejudiced and I have considered Miss Preston's resubmitted evidence in my decision.

ISSUES

10. The issues in this dispute are:
 - a. Did Miss Preston give notice as required under the parties' agreement to end the tenancy?
 - b. If not, what amount, if any, does Miss Preston owe Mrs. Storey for ending the tenancy without proper notice?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, as the applicant, Mrs. Storey must prove her 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.
12. On September 12, 2021, the parties entered into a written roommate agreement. The roommate agreement’s terms included the following:
 - a. The tenancy started on September 12, 2021 and would continue on a month-to-month basis until ended with 1 month written notice.
 - b. If Miss Preston failed to give 1 month’s notice to vacate, she would forfeit her security deposit and would be required to leave before the new month began.
 - c. Miss Preston would pay \$650 rent each month on the first day of the rental period which fell on the first day of each month.
 - d. Miss Preston would pay a \$325 security deposit which would be returned to her “upon vacating the property leaving no damage behind and giving one month’s written notice”.
13. On February 13, 2022, Miss Preston gave Mrs. Storey 30 days’ written notice that she would be moving out on March 13, 2022 at the latest. Miss Preston moved out on February 14, 2022. It is undisputed that Miss Preston paid February’s rent but did not pay rent for March. It is also undisputed that Mrs. Storey has not returned Miss Preston’s \$325 deposit.

Did Miss Preston give proper notice to end the tenancy?

14. Mrs. Storey says that Miss Preston’s February 13, 2022 notice was insufficient because the parties’ agreement required her to give 1 month’s notice, not 30 days’ notice. Mrs. Storey says that since Miss Preston’s rent was due on the first of every

month, 1 month's notice means Miss Preston had to pay rent until the end of March 2022.

15. Miss Preston says that the parties' agreement only required her to give 30 days' notice. In her written submissions, Miss Preston also alleges that Mrs. Storey breached the parties' agreement by leaving sticky notes around the shared living spaces and bringing other people into the home and in the shared living spaces. Miss Preston further submits that Mrs. Storey was verbally abusive, threatened to take away laundry privileges, and allowed her pets into the shared living spaces and into Miss Preston's room.
16. To the extent Miss Preston argues that Mrs. Storey's conduct amounted to a fundamental breach of contract allowing her to end the tenancy without notice, I find it unproven for the following reasons. First, the pictures of the sticky notes in evidence show instructions left by Mrs. Storey for Miss Preston and the other residents. These instructions included emptying the garbage can when full and cleaning out the fridge once a week, among other things. I find these sticky notes do not prove Mrs. Storey breached the parties' agreement. Rather, the sticky notes had requests that I find were reasonable in a shared living situation.
17. Further, Miss Preston provided no supporting evidence such as witness statements from others she says witnessed Mrs. Storey's alleged improper conduct. Since I have found that the evidence does not establish that Mrs. Storey fundamentally breached the parties' agreement, I find Miss Preston was required to give notice that she was going to move out in accordance with the parties' agreement. Based on the agreement's terms, I find Miss Preston was required to give 1 month's notice to vacate.
18. Did Miss Preston's February 13, 2022 notice satisfy the 1-month notice requirement under the parties' agreement? For the reasons that follow, I find that it did not. As mentioned above, the agreement specifically stated that the tenancy was month-to-month and that the rental period started on the first day of each month. Miss Preston also agreed that if she failed to give 1 month's notice to vacate, she would not only

forfeit her deposit but would also be required to move out before the new month began. Based on these terms, I find the 1 month's notice under the agreement required Miss Preston to give notice and pay rent for 1 full rental month before she moved out.

19. Miss Preston's February 13, 2022 notice said that she intended to move out by March 13, 2022 at the latest. Since Miss Preston gave notice in the middle of February, I find she was required to pay Mrs. Storey rent for the full month of March. Further, I find the term in the parties' agreement that Miss Preston would forfeit her deposit allowed Mrs. Storey to have some security in the event Miss Preston failed to give proper notice. So, I find Mrs. Storey was entitled to keep the deposit and apply it towards March's rent. Taking the \$325 deposit into account, I find Miss Preston owes Mrs. Storey \$325 for the remaining portion of March's rent.
20. The *Court Order Interest Act* (COIA) applies to the CRT. Mrs. Storey is entitled to pre-judgment interest on the \$325 from March 1, 2022, the due date for March's rent, to the date of this decision. This equals \$2.17.
21. 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. I find Mrs. Storey is entitled to reimbursement of \$125 in CRT fees.
22. Mrs. Storey also claims \$150 process serving fees as a dispute-related expense. She says that she had to get a process server to serve Miss Preston with the Dispute Notice because Miss Preston did not provide a forwarding address when she moved out and blocked Mrs. Storey's text messages, making it difficult to serve Miss Preston. Miss Preston does not deny that she blocked Mrs. Storey's phone number and did not provide a forwarding address. However, she says that she has no knowledge about anyone contacting her about "small claims court paperwork or legal paperwork".

23. A bank statement in evidence shows Mrs. Storey paid L and L processing \$300 on April 11, 2022, the day Miss Preston received the Dispute Notice. Mrs. Storey says the process server served another individual living at the same address at the same time for her, so she is only claiming the \$150 she was charged by the process server for serving Miss Preston. Based on the evidence before me, I find it more likely than not that Mrs. Storey incurred the claimed process serving expense to serve Miss Preston with the Dispute Notice. I find the \$150 expense was reasonable in the circumstances, and I order Miss Preston to reimburse Mrs. Storey for it.

ORDERS

24. Within 21 days of the date of this decision, I order Miss Preston to pay Mrs. Storey a total of \$602.17, broken down as follows:

- a. \$325 in debt,
- b. \$2.17 in pre-judgment interest under the COIA, and
- c. \$275, for \$125 in CRT fees and \$150 for dispute-related expenses.

25. Mrs. Storey is entitled to post-judgment interest under the COIA, as applicable.

26. 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.

Nav Shukla, Tribunal Member