



Civil Resolution Tribunal

Date Issued: October 21, 2022

File: SC-2022-003316

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Bock v. Girard*, 2022 BCCRT 1155

BETWEEN:

RHONDA BOCK

APPLICANT

AND:

LAVONNE GIRARD

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about short-term rental accommodation. The applicant, Rhonda Bock, rented a suite from the respondent, Lavonne Girard, for 20 nights. Ms. Bock says the suite was infested with mice and vacated the suite after 10 nights. She seeks a refund of the unused nights (\$1,762.50), compensation for ruined belongings (\$150), and a

refund for the price difference of having to book a new rental property (\$28.77). She claims a total of \$1,941.27.

2. Ms. Girard denies there was an infestation and says Ms. Bock could have finished her stay at the property. She says Ms. Bock is not entitled to any refund.
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. Under the *Residential Tenancy Act* (RTA), the Residential Tenancy Branch (RTB) has jurisdiction to decide disputes involving rights and obligations under the RTA or a residential tenancy agreement. Neither party says the RTB has jurisdiction to decide this dispute. Further, RTA section 4(e) specifically excludes accommodations occupied as vacation or travel accommodation. Here, the rental was undisputedly for travel accommodation. So, the RTA does not apply and the CRT has jurisdiction to decide this dispute under CRTA section 118.

ISSUE

9. The issue in this dispute is to what extent, if any, Ms. Bock is entitled to the claimed \$1,941.27 for an alleged rodent infestation.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant must prove her claims on a balance of probabilities (meaning “more likely than not”). While I have read all of the parties’ submitted evidence and arguments, I have only addressed those necessary to explain my decision.
11. The following facts are undisputed. Ms. Girard advertised the lower floor suite of her home on AirBnB. Ms. Bock saw Ms. Girard’s ad and contacted her directly to book her suite for 20 days, from May 1 to 21, 2022. The parties admittedly made their arrangements outside of AirBnB’s platform to avoid extra fees imposed by AirBnB. So, to the extent Ms. Bock argues AirBnB’s refund policies apply to the parties’ arrangement, I disagree.
12. In any event, neither party submitted evidence of the parties’ communications about the rental. There is no written agreement between the parties. However, they agree Ms. Bock paid Ms. Girard a total of \$3,525 to rent the suite from May 1 to 21, 2022.

13. Ms. Bock and her co-worker, CD, undisputedly moved in on May 1, 2022. Between May 4 and 7, 2022, Ms. Bock says she could hear “scurrying” in the roof of the suite but thought Ms. Girard may have had a small dog in the upstairs suite. On the evening of May 8, 2022, Ms. Bock discovered mice in the suite, one chewing on her belongings in the closet and one eating CD’s food on the kitchen counter.
14. On May 9, 2022, Ms. Girard’s husband set up traps and caught two mice overnight. The next day, CD woke up and found mouse droppings on her bed. Ms. Bock and CD moved out on May 10, 2022. Ms. Bock says they were concerned about their health and safety, as well as having constantly disturbed sleep from the mice noise. As noted, Ms. Bock seeks a 50% refund (\$1,762.50) for unused nights, \$150 for damaged property, and \$28.77 which is the difference between what she paid for Ms. Girard’s property for the remaining 10 nights and what she paid for a new AirBnB.
15. Ms. Girard does not dispute that there were mice in the suite. However, she denies it was an “infestation”. Ms. Girard says she brought in a professional and they found no further mouse activity. Ms. Girard says she offered Ms. Bock \$300 for 2 nights’ alternative accommodation while the issue was being investigated. She says after that, Ms. Bock should have returned to the property to finish out the rental.
16. Ms. Girard provided an email and a service inspection report from Pest Detective. The undated email says that on May 12, 2022, a Pest Detective technician attended Ms. Girard’s home and “looked around interior for signs of rodent activity”, and “could not find evidence of active rodent infestation”. The service inspection report notes the same technician attended on July 19, 2022, inspected for signs of rodent activity, but found no signs of further activity. The technician wrote a “mouse could’ve come in with doors left open and garbage as an attractant”.
17. Ms. Bock specifically denies attracting mice into the suite and says she always placed garbage into the can with a closed lid.

18. I place little weight on Pest Detective's reports. First, I find the July 19, 2022 report of little assistance as it was months after Ms. Bock's complaints. Second, although the technician allegedly could "not find evidence of active rodent infestation" during his May 12, 2022 visit, Ms. Girard does not dispute that there were mice in the suite during Ms. Bock's stay, which is evidenced by the dead mice in the traps set by Ms. Girard's husband, and the photos of mice and mice droppings taken by Ms. Bock and CD. Although Ms. Girard questions whether one of the mouse photos was actually from her home as it shows the mouse on wooden floors, Ms. Bock explains the mouse was on the wooden kitchen counter, which is consistent with other photos of the kitchen in evidence. I accept the photos provided are of mice in Ms. Girard's lower suite. Whether it fits the definition of an "infestation" or not, on balance, I accept that there were active mice in the suite during Ms. Bock's stay.
19. As noted, there was no written agreement between the parties. However, I find it was an implied term of the parties' rental agreement that the suite would be clean and free of rodents and rodent droppings during the rental period. I find this was not the case. So, I find Ms. Girard breached this implied term of the parties' agreement.
20. I find it was reasonable for Ms. Bock to vacate the premises given the ongoing mouse issue. I find Ms. Bock is entitled to the requested refund for the remaining 10 days, as well as the difference in price for the new accommodation, which is proven by a receipt in evidence.
21. As for Ms. Bock's claim for damaged property, I find this claim is unproven. Although Ms. Bock submitted photos of a hole chewed through a piece of her clothing, she did not provide any evidence of the cost to repair or replace the clothing. So, I dismiss this aspect of Ms. Bock's claim.
22. In summary, I find Ms. Girard must reimburse Ms. Bock a total of \$1,791.27. Ms. Bock is also entitled to pre-judgment interest on this amount under the *Court Order Interest Act*. Calculated from May 10, 2022, the day Ms. Bock moved out to the date of this decision, this amounts to \$10.58.

23. 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. Ms. Bock was successful, so I find she is entitled to reimbursement of \$125 in paid tribunal fees. No dispute-related expenses were claimed.

ORDERS

24. Within 30 days of the date of this decision, I order the respondent, Lavonne Girard, to pay the applicant, Rhonda Bock, a total of \$1,926.85, broken down as follows:

- a. \$1,791.27 in damages,
- b. \$10.58 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$125 in tribunal fees.

25. Ms. Bock is also entitled to post-judgment interest, 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.

Andrea Ritchie, Vice Chair