



Civil Resolution Tribunal

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File: SC-2022-001668

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Paul v. Lail*, 2022 BCCRT 1350

B E T W E E N :

PARMJIT PAUL and 1084782 B.C. LTD.

APPLICANTS

A N D :

AMARDEEP LAIL, 1084816 B.C. LTD. and PAUL NAHAL

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Richard McAndrew

INTRODUCTION

1. This dispute is about co-owned property expenses . The corporate applicant, 1084782 B.C. Ltd. (782), and the corporate respondent, 1084816 B.C. Ltd. (816), co-owned a rental property. The applicant, Parmjit Paul is 782's director and the respondents, Amardeep Lail and Paul Nahal are the owners or principals of 816. The applicants claim \$3,395.65 for reimbursement of property expenses.

2. The respondents deny the claim. They say that the applicants have not proven the amount of their claimed expenses. Further, they say that their debt for these expenses should be reduced by rental income that 782 allegedly received. The respondents also say that the applicants have already been compensated with a \$10,000 payment from the property sale proceeds. The applicants say that this \$10,000 payment was for management services rather than property expenses.
3. Parmjit Paul is self-represented and he represents 782. Amardeep Lail is self-represented and he represents 816. Paul Nahal is 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. 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.

ISSUES

8. The issues in this dispute are:
 - a. Must the respondents reimburse the applicants \$3,395.65 for property expenses?
 - b. Are the respondents entitled to a setoff from these alleged expenses for alleged rental income or the \$10,000 payment received by the applicants?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicants must prove their claim on a balance of probabilities (meaning “more likely than not”). I have read all the parties’ submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
10. It is undisputed that 782 and 816 previously co-owned a rental house, which they sold in May 2021. Though the parties have not expressly said this, I have considered whether 782 and 816 had a partnership. The parties’ legal relationship is significant because it affects their mutual rights and obligations relating to the property.
11. Section 2 of the *Partnership Act* (PA) defines a partnership as a relationship between persons carrying on business in common with a view of profit. However, section 4(a) of the PA says that the mere co-ownership of land and sharing of the property’s profits is not sufficient to create a partnership. Rather, co-owners only become partners when they have a common intention to carry on business in a partnership, instead of maintaining separate property interests as co-owners (see *Garland v. Newhouse*, 2021 BCSC 1291 at paragraph 53).

12. Here, the applicants say the parties agreed to share the property's ownership and management expenses equally. The respondents do not dispute this and they say that the parties also agreed to apply the property's rent payments to those expenses. On balance, I find that 782 and 816 agreed to equally share the property's expenses and revenue with an objective to earn profit. Based on this, I find that 782 and 816 had a partnership.
13. It is undisputed that Parmjit Paul, Amardeep Lail and Paul Nahal were not owners of the property. Further, Paul Nahal says that they did not intend to be personally involved with the property, which the applicants do not dispute. Based on the above, I find that the evidence does not establish that Parmjit Paul, Amardeep Lail and Paul Nahal intended to act as partners in their personal capacities. So, I find these individuals are not partners and I dismiss Parmjit Paul's claim and the claims against Amardeep Lail and Paul Nahal.
14. So, does 816 owe 782 reimbursement of expenses? Section 11 of the PA says that all partners are jointly responsible for partnership debts. Here, 816 does not dispute that it is equally responsible for the property's expenses. However, 816 argues that 782 has not proven its alleged expenses.

Mortgage interest expense

15. 782 claims it spent \$2,062 monthly on mortgage interest from February 2020 to April 2021. However, 782 did not provide any documents supporting these alleged payments other than its own spreadsheet. 816 denies this and says that the mortgage interest was not paid monthly. Rather, 816 says the mortgage interest was paid from the property sale proceeds and by a lump sum payment during the loan. 816 provided a January 31, 2020 invoice for \$29,625 for mortgage interest from November 2016 to December 2019. Further, 816 provided a June 6, 2022 trust reconciliation report showing that a mortgage was paid out from the sale proceeds. However, 816's documents do not show whether or not mortgage interest was paid between February 2020 and April 2021.

16. In the absence of supporting evidence, I find 782's and 816's submissions about the interest payments to be equally likely. So, I find that 782 has not proven that it paid monthly mortgage interest expenses in respect of the property. Based on the above, I dismiss 782's claim for reimbursement of mortgage interest expenses.

Property taxes

17. 782 provided a July 2, 2020 municipal notice charging \$4,389.26 in property taxes. Since 816 did not dispute this expense, I find that it is equally responsible for it.

Data entry

18. 782 provided an October 15, 2021 invoice for \$1,500 for data entry. Though 782 has not explained the nature of this expense, 816 did not dispute it. So, I find that 816 is equally responsible for the data entry expense.

Insurance and home warranty premiums

19. 782 provided a December 15, 2020 home warranty premium invoice for \$2,050 and a November 4, 2020 insurance premium invoice for \$816. Since 816 did not dispute these expenses, I find that it is equally responsible for these expenses totaling \$2,866.

Utilities

20. 782 provided the following utility invoices:

- a. A January 26, 2020 invoice for \$29.42 for electricity services,
- b. A January 29, 2020 invoice for \$88.10 for gas utilities,
- c. A January 31, 2020 invoice for \$22 for municipal metered water service,
- d. A May 29, 2020 invoice for \$268.75 for municipal metered water service,
- e. A September 30, 2020 invoice for \$740.70 for municipal metered water service, and,

f. A January 29, 2021 invoice for \$189.86 for municipal metered water service.

21. Since 816 did not dispute any of these expense, I find that it is equally responsible for these utility expenses totaling \$1,338.83.

Energy report

22. 782 provided a December 22, 2020 invoice for \$1,575 for an energy report. Since 816 did not dispute this expense, I find that it is equally responsible for it.

Cleaning and garbage removal

23. 782 provided the following invoices for cleaning and garbage removal:

a. A May 9, 2021 invoice for \$500 for garbage removal,

b. A May 11, 2021 invoice for \$273.80 for carpet cleaning, and,

c. A May 12, 2021 invoice for \$341.25 for housecleaning.

24. Since 816 did not dispute any of these expenses, I find that it is equally responsible for these cleaning and garbage removal expenses totaling \$1,115.05.

25. Based on the above, I find that 782 has proved that it has incurred \$12,784.14 in expenses relating to the property and I find that 816 is responsible for one-half of the property's expenses as a partner. So, I find that 782 has proved that 816 owes the claimed \$3,395.65 in expenses, subject to the 816's setoff request discussed below.

Setoff

26. 816 argues that its debt for property expense reimbursement should be reduced because 782 received rental revenue from the property. As a partnership, I find that both parties are entitled to share the property's profits. So, 816 may be entitled to a setoff from its property expense reimbursement debt if it can prove that 782 has received unshared rent from the property.

27. 782 says it received \$925 in rent and a \$925 security deposit in February 2020 and \$1,850 monthly from March 2020 to March 2021. This totals \$24,975 in rental income. I have excluded the \$925 security deposit from this total because there is no evidence showing whether or not this security deposit was returned to the tenants at the end of their tenancy. It is undisputed that 816 did not receive any of this rental income.
28. 816 says that 782 has not proven the amount of rental income it received because 782 has not provided a tenancy agreement. However, 782 provided a July 4, 2020 e-transfer receipt showing a \$1,850 rent payment. Though 782 only provided 1 rent payment transaction record, I infer and find that the rent would likely remain generally the same from month to month. Further, 782 provided a July 23, 2022 email from the Residential Tenancy Branch (RTB) saying that the tenants filed an RTB dispute. The RTB's email says that the tenant's dispute application stated that their tenancy started on February 15, 2020, with a monthly rent of \$1,850. Based on the above, I am satisfied that 782 received \$24,975 in rental income from February 2020 to March 2021 and I find that 782 has not shared any of that rental income with 816.
29. Based on the above, I find that 782's unshared property rental receipts exceed its claimed property expenses. So, I find that 782 is not entitled to reimbursement of property expenses. Based on this finding, I find it unnecessary to determine whether the \$10,000 payment received by 782 from the property sale proceeds related to the property expenses.
30. For the above reasons, I dismiss 782's claim.

CRT fees, expenses and interest

31. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. Since the applicants were not successful, I dismiss their claim for reimbursement of CRT fees. None of the parties requested reimbursement of dispute-related expenses, so none are ordered.

ORDERS

32. I dismiss the applicants' claim and this dispute.

Richard McAndrew, Tribunal Member