



Civil Resolution Tribunal

Date Issued: February 10, 2023

File: SC-2022-000922

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Dubois v. Jackson*, 2023 BCCRT 128

BETWEEN:

COLETTE DUBOIS

APPLICANT

AND:

STEPHEN CRAIG JACKSON

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. Colette Dubois rented a house to Stephen Craig Jackson. Ms. Dubois alleges that Mr. Jackson damaged the house while he lived there. She claims \$3,500, which she says was the cost of repairing the house, replacing a dishwasher, and dealing with a pest infestation.

2. Mr. Jackson denies allowing pests into the house or causing any damage. He also denies responsibility for the dishwasher, which he says simply stopped working while he lived there through no fault of his. He asks me to dismiss Ms. Dubois's claims.
3. The parties are each self-represented. For the reasons that follow, I find that the Civil Resolution Tribunal (CRT) does not have jurisdiction (or legal authority) to decide Ms. Dubois's claims.

JURISDICTION AND PROCEDURE

4. These are the CRT's formal written reasons. 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. Because I find the jurisdiction issue central to this dispute, I have addressed it in detail below.

ISSUES

8. The issues in this dispute are:
 - a. Does the CRT have jurisdiction over this dispute?
 - b. If so, has Ms. Dubois proven her claims?

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, Ms. Dubois as the applicant must prove her case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that is outside the CRT's jurisdiction. Under section 84.1 of the *Residential Tenancy Act* (RTA), the Residential Tenancy Branch (RTB) has exclusive jurisdiction over residential tenancy disputes. This means that the CRT cannot resolve disputes that the RTB can resolve under the RTA.
11. The parties have already been involved in an RTB dispute. On May 24, 2022, Ms. Dubois obtained an RTB order requiring Mr. Jackson to vacate the house. With that, even though neither party provided a written tenancy agreement, I find that Mr. Jackson was Ms. Dubois's tenant under the RTA.
12. Neither party raised the issue of the CRT's jurisdiction, so I asked them to provide submissions. Ms. Dubois said that she did not believe the RTB could award compensation for damaged property. However, section 7 of the RTA says that if a tenant does not comply with the RTA, they must compensate a landlord for any loss or damage that results. Section 37(2)(a) of the RTA says that a tenant must leave a rental unit reasonably clean and undamaged, other than reasonable wear and tear. Section 58 of the RTA says that the RTB has jurisdiction over a tenant's obligations under the RTA, which I find includes the obligations in section 37(2)(a).

13. Together, I find that these provisions give the RTB exclusive jurisdiction over Ms. Dubois's claims, which are all based on her allegations that Mr. Jackson did not leave the house undamaged.

14. I therefore find that the CRT has no jurisdiction over Ms. Dubois's claims. I refuse to resolve them under section 10 of the CRTA.

15. In the circumstances, I direct the CRT to refund Ms. Dubois's CRT fees.

ORDERS

16. I refuse to resolve Ms. Dubois's claims under section 10 of the CRTA. This concludes this CRT dispute.

Eric Regehr, Tribunal Member