



# Civil Resolution Tribunal

Date Issued: March 6, 2023

File: SC-2022-004084

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Weng v. Araki*

2023-BCCRT 182

BETWEEN:

MAN-LING WENG

**APPLICANT**

AND:

DAICHI ARAKI

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

David Jiang

## INTRODUCTION

1. This dispute is between former roommates. The applicant, Man-Ling Weng, says the respondent, Daichi Araki, breached their tenancy contract by evicting her without reasonable notice. She claims \$4,500 as damages for a combination of extra rent she paid and 2 months for “moral damage”. She provides no specific breakdown.

2. Mr. Araki disagrees. He says he provided reasonable notice and was entitled to evict her in any event.
3. The parties are self-represented.
4. For the reasons that follow, I find Ms. Weng has partially proven her claim.

## **JURISDICTION AND PROCEDURE**

5. 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.
6. 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.
7. 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.
8. 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.

9. In general, residential tenancy disputes are within the exclusive jurisdiction of the Residential Tenancy Branch (RTB) under the *Residential Tenancy Act* (RTA). However, the RTB declines jurisdiction over roommate disputes like this one. The parties' submissions also indicate the RTB refused to decide this dispute. So, I find the RTA does not apply and find this is a contractual roommate dispute within the CRT's small claims jurisdiction.

## **ISSUE**

10. The issue is whether Mr. Araki breached the parties' contract, and if so, what remedies are appropriate.

## **BACKGROUND, EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, Ms. Weng as applicant must prove her claims on a balance of probabilities. This means 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.
12. The following facts are undisputed. In July 2019, Ms. Weng became a tenant in a house. At the time, Mr. Araki was also a tenant. In March 2020, Mr. Araki took over collecting rent, filling rental vacancies, and dealing with tenant conflicts. He did so at the request of a property management company managing the house at the time.
13. I find that around this same time, the parties entered into a new unwritten rental agreement with Mr. Araki as landlord and Ms. Weng as tenant. This verbal agreement is referred to in the parties' submissions and specifically in the April 2022 notice discussed below. It is undisputed that Ms. Weng paid \$600 monthly rent to Mr. Araki under the terms of the unwritten month-to-month tenancy.
14. The following facts are also undisputed. Starting from September 2021, Mr. Araki permitted Ms. Weng's friend, SCJ, to stay in her rented bedroom. In exchange, Ms. Weng increased her monthly rent payment from \$600 to \$700. In November 2021,

Ms. Weng temporarily left for Taiwan. Mr. Araki and SCJ signed a document, postdated May 24, 2022. They agreed that from December 1, 2022 onwards, SCJ would temporarily stay in Ms. Weng's room to safeguard her possessions. SCJ would pay \$600 in monthly rent to Mr. Araki. Although dated after their arrangement began, I find the agreement is likely accurate as it is consistent with the other evidence.

15. It is also undisputed that Ms. Weng initially told Mr. Araki she would return in February 2022. During her time away, Ms. Weng advised Mr. Araki that her expected return date was now June 16, 2022. Mr. Araki did not object at the time.
16. After this, on April 20, 2022, Mr. Araki emailed Ms. Weng a notice to end the tenancy. Mr. Araki said Ms. Weng had until May 31, 2022 to move out because she breached their contract by subleasing her room to SJC without his consent. I find this contrary to Mr. Araki's own statement that he agreed to allow SCJ to move into Ms. Weng's room. Mr. Araki also said in the notice that he had rented the room to someone else.
17. Emails and text messages show the following. Ms. Weng objected to the notice. Mr. Araki accepted \$600 rent for June 2022 from Ms. Weng and left her items undisturbed. Mr. Araki changed the house locks. When Ms. Weng arrived on June 16, 2022, Mr. Araki refused entry. He said he needed time to decide what to do. From June 16 to 17, 2022, Mr. Araki collected votes from the tenants on a form. He asked whether Ms. Weng should be allowed to stay from June 17 until June 30, 2022.
18. In the late evening of June 17, 2022, Mr. Araki told Ms. Weng she could return but had to vacate by the end of June 2022. On June 18, 2022, Ms. Weng agreed in writing to vacate by the morning of July 1, 2022. Mr. Araki provided a key, and Ms. Weng moved out on July 1, 2022.

***Did Mr. Araki breach the parties' contract?***

19. As the RTA does not apply, I find that the parties' rights and responsibilities are governed by contract law. I have found that the parties entered into a verbal contract for Ms. Weng to rent accommodation from Mr. Araki. I also find that they did not agree in advance on the process for Ms. Weng to move out.

20. Mr. Araki accepted Ms. Weng's rent for the month of June 2022. So, I find he was obligated to allow Ms. Weng access to her room for the entire month once she returned. I find he breached the agreement by denying Ms. Weng access for the days and nights of June 16 and 17, 2022.
21. Mr. Araki's submissions focus on the issue of reasonable notice. He says was entitled to evict Ms. Weng with less or no notice because she subleased her room and bullied others. However, I find those allegations are irrelevant given that he decided to accept rent from Ms. Weng for June 2022. Given that, I find he was legally obligated to provide access.
22. Mr. Araki also says that he collected \$600 in June 2022 to "store" Ms. Weng's items. I disagree. There is no indication Ms. Weng agreed to pay this amount for mere storage.
23. I turn to damages. Ms. Weng could not use her room for June 16 and 17, 2022. So, I order Mr. Araki to refund \$40 of prorated rent. Ms. Weng stayed at her friend's residence for June 16 and 17, 2022, so I find she did not sustain any other out-of-pocket loss for that time period.
24. Ms. Weng provided a photo of a receipt for \$2,190 spent on June 17, 2022, for temporary accommodation for the nights of June 18 to 30, 2022. Ms. Weng says she incurred this expense because she did not know at the time if she could return.
25. I find it was unreasonable for Ms. Weng to pay this amount for 2 reasons. First, Ms. Weng paid upfront for accommodation for the remainder of the entire month. I find this was unreasonably long, because she knew Mr. Araki was still collecting votes to decide on letting her stay at the time. Second, I find the amount spent disproportionate to her monthly rent of \$600. Ms. Weng paid an effective monthly rate of \$4,400 for temporary accommodation.
26. Given the above, I find Ms. Weng is only entitled to reimbursement of \$130 of this amount. This is the daily rate on the receipt. I find reimbursement of 1 day is

reasonable since Mr. Araki delivered his decision late and near midnight on June 17, 2022.

27. In submissions, Ms. Weng also claims \$210 for moving fees. This claim is not in the Dispute Notice, and I find Ms. Weng would have spent this amount in any event had Mr. Araki provided reasonable notice. So, I disallow it for both those reasons.
28. Ms. Weng also claims an unspecified amount for “moral damage”. Based on her submissions I find she seeks punitive damages, which are generally awarded to punish a morally culpable respondent and are usually granted only for malicious and outrageous acts. See *Honda Canada Inc. v. Keays*, 2008 SCC 39 at paragraphs 62 and 68 and *Chalmers v. AMO Canada Company*, 2010 BCCA 560 at paragraph 29. Punitive damages should be resorted to in only exceptional cases and with restraint. See *Whiten v. Pilot Insurance Co.*, 2002 SCC 18 at paragraph 69. I have no doubt that Mr. Araki’s breach caused unnecessary inconvenience and disappointment. However, I find it unproven that he acted maliciously, outrageously, or that this is an exceptional case.
29. In summary, I order Mr. Araki to refund \$40 in rent and pay \$130 in damages, for a total of \$170. The *Court Order Interest Act* applies to the CRT. Ms. Weng is entitled to pre-judgment interest on the damages award of \$170 from June 16, 2022, the date Ms. Weng was first denied entry, to the date of this decision. This equals \$2.77.
30. 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 Ms. Weng is entitled to partial reimbursement of \$87.50 in CRT fees. The parties did not claim any specific dispute-related expenses.

## **ORDERS**

31. Within 30 days of the date of this order, I order Mr. Araki to pay Ms. Weng a total of \$260.27, broken down as follows:

- a. \$170 as damages,
- b. \$2.77 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$87.50 in CRT fees.

32. Ms. Weng is entitled to post-judgment interest, as applicable.

33. 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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David Jiang, Tribunal Member