



Civil Resolution Tribunal

Date Issued: April 28, 2023

File: SC-2022-005911

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Cook v. Zhang*, 2023 BCCRT 355

BETWEEN:

DAVID RYAN COOK

APPLICANT

AND:

JING ZHANG

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Christopher C. Rivers

INTRODUCTION

1. This dispute is about moving fees. The applicant, David Ryan Cook, rented residential property from the respondent, Jing Zhang. The applicant says the respondent agreed to pay for the cost of professional movers at the end of his tenancy. The applicant says the parties have a binding contract and claims \$4,320.75 for movers' fees.

2. The respondent says they are not obligated to reimburse the applicant for his moving fees as the parties did not have a contract. They ask that I dismiss the applicant's claim.
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.
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.
8. In a November 18, 2022 preliminary decision, the CRT considered whether this matter should be resolved under the *Residential Tenancy Act* (RTA). Section 58 of the RTA says the Residential Tenancy Branch has exclusive jurisdiction over disputes between landlords and tenants about rights and obligations under the RTA, with some

exceptions. The CRT found the issue of moving fees was not addressed by the RTA, and that if there was an agreement between the parties, it was separate from the parties' tenancy agreement.

9. Determining if the parties have an agreement, other than a tenancy agreement, and any remedies a party may have under that agreement, fall under the CRT's small claims jurisdiction.
10. Although the preliminary decision is not binding on me, I agree with it and find the CRT has jurisdiction to hear this dispute.

ISSUES

11. The issues in this dispute are:
 - a. Do the parties have a contract about moving fees?
 - b. If so, is the applicant's entitled to the claimed \$4,320.75?

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, the applicant must prove his claims on a balance of probabilities. 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.
13. The parties agree on the relevant facts. The applicant rented residential property from the respondent from October 2019 to July 2022.
14. In April 2022, the respondent decided to sell the property, and told the applicant they may need to move out. On April 10, 2022, the respondent texted the applicant to say if the applicant moved out by the end of June, the respondent would pay the applicant's moving fees.

15. On April 17, 2022, the respondent again texted the applicant to say if the applicant had to move out by the end of June 2022, the respondent would pay the applicant's moving fee.
16. On May 2, 2022, the respondent texted the applicant that the respondent had accepted an offer on the property. The respondent told the applicant he may receive a Two Month Notice to End Tenancy and again said they would pay the applicant's moving fee. The applicant acknowledged the offer and thanked the respondent for their generosity.
17. On May 24, 2022, the applicant acknowledged receiving a two month notice. The notice required him to vacate the property by July 31, 2022.
18. On June 30, 2022, the applicant texted the respondent that he had found new accommodations. On July 2, 2022, the applicant texted the respondent that the move would take place on July 9, 2022. He also asked the respondent to confirm they would cover the cost of the move and said they had been quoted \$190 per hour. The respondent texted back, confirming they would pay.
19. On July 10, 2022, the applicant told the respondent the move cost \$3,655. The respondent said it was more than they expected, and that they would be in touch through their property manager. The parties were unable to resolve the matter.
20. The applicant argues that since there was both offer and acceptance, the parties had a binding contract, and the respondent must pay his moving costs. So, did the parties have a contract?
21. For a contract to exist, there must be three elements: offer, acceptance, and consideration, which is something of value given by each party. There is no dispute that the respondent made an offer and that the applicant accepted it, but I find the applicant's claim must fail for lack of consideration.
22. The respondent made the offer to pay for moving fees gratuitously and received nothing of value in return for it. The initial offer was contingent on the applicant moving

out by the end of June, which may have provided the respondent with consideration, but that offer was never accepted. The applicant was then required by a two month notice to move out by the end of July, and there is no argument his decision to move out on July 8 was part of the parties' agreement or provided the respondent any benefit. Any entitlement the applicant may have arising from the end of the tenancy itself, such as compensation for notice or refund for rent, is addressed under the RTA and is not before me.

23. Without consideration, the parties do not have an enforceable contract. So, I find the respondent is not responsible to pay the applicant for moving fees and I do not need to consider his particular damages claims. I dismiss the applicant's claim.

24. 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. As the applicant was not successful, I find he is not entitled to reimbursement of his paid tribunal fees or claimed dispute-related expenses. The respondent did not pay any tribunal fees or claim any dispute-related expenses.

ORDER

25. I dismiss the applicant's claims and this dispute.

Christopher C. Rivers, Tribunal Member