



# Civil Resolution Tribunal

Date Issued: October 30, 2023

File: SC-2022-007840

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Metcalf v. Major*, 2023 BCCRT 928

BETWEEN:

JAIME LEE METCALFE

**APPLICANT**

AND:

JAMIE MAJOR and CORBIN MAJOR

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Nav Shukla

## INTRODUCTION

1. The applicant, Jaime Lee Metcalfe, and the respondents, Jamie Major and Corbin Major, live in the same house. The applicant resides on the house's main floor and the respondents reside in the basement. The applicant alleges the respondents' cats caused damage to their property by entering into the main floor unit and urinating and defecating there. They also allege there are flies in their main floor unit because of

the cat urine. The applicant says that this has caused issues for their entire family including vomiting, headaches, and severe dizziness. The applicant claims \$5,000 in damages for alleged property damage and pain and suffering with no breakdown provided.

2. The respondents deny the applicant's claims. They say that there is no way their cats could have entered the applicant's main floor unit and caused any alleged damage. They further say that any flies on the main floor are likely due to garbage left around by the applicant. The respondents allege the applicant has fabricated their claims and ask that this dispute be dismissed.
3. The parties are all 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). 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 and that an oral hearing is not necessary.
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.

## **ISSUES**

7. The issues in this dispute are:

- a. Did the respondents' cats damage the applicant's property or cause the applicant's alleged vomiting, headaches, and dizziness?
- b. If so, what are the appropriate remedies?

## **EVIDENCE AND ANALYSIS**

8. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities (meaning "more likely than not"). I have considered all the parties' submitted evidence and argument but refer only to what I find relevant to provide context for my decision. I note the applicant did not provide any written argument aside from that contained in the Dispute Notice or documentary evidence, despite having the opportunity to do so.
9. As noted above, the respondents deny that their cats have caused any alleged damage to the applicant's property, or that any flies on the main floor are due to their cats. The respondents provided photographs of garbage bags they say were left by the applicant by the house's front door which they say are the likely cause of any flies on the main floor. They also provided photographs of what they say is the only connecting door between the basement suite and the main floor unit. The photographs show that this door is sealed shut with a poly vapour barrier. The respondents' evidence also includes an email statement from their landlord, HJ. In this email, HJ says that it is not possible for the respondents' cats to enter the main floor unit because the only connecting door is closed. HJ further says that the flies the applicant complains about are likely from garbage the applicant leaves by the front door as the applicant always leaves the front door open.
10. The applicant has provided no details about when, how, or how many times the respondents' cats allegedly entered the main floor. There is no documentary evidence before me showing any of the alleged property damage, such as photographs showing areas on the main floor with cat urine, cat feces, or flies. As noted above, the burden is on the applicant to prove their claims. Here, I find the applicant has failed to prove that the respondents' cats have caused any damage to their property.

I also find it unproven that the respondents' cats have caused the applicant to suffer from any alleged headaches, vomiting, or dizziness. As a whole, I find the applicant's claims, including their claimed damages, unproven. So, I dismiss the applicant's claims and this dispute.

11. 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. While the respondents were successful here, they did not pay any CRT fees or claim any dispute-related expenses. So, I order no reimbursement.

## **ORDER**

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

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Nav Shukla, Tribunal Member