



Civil Resolution Tribunal

Date Issued: January 30, 2024

File: SC-2023-000096

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lawrence v. Sidhu*, 2024 BCCRT 93

BETWEEN:

BRENT S LAWRENCE

APPLICANT

AND:

MANJIT SINGH SIDHU

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. This dispute is about a commercial lease agreement. Brent S Lawrence rented commercial premises from Manjit Singh Sidhu. Mr. Lawrence claims reimbursement from Mr. Sidhu for their damage deposit, allegedly overpaid rent, and sprinkler system relocation expenses. Mr. Lawrence is self-represented.

2. Mr. Sidhu denies owing anything to Mr. Lawrence, and asks me to dismiss this dispute. Mr. Sidhu is represented by a family member.

JURISDICTION AND PROCEDURE

3. 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.
4. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required even where credibility is at issue. Here, I am satisfied I can fairly decide this dispute based on the evidence and submissions provided, without an oral hearing.
5. Where permitted by CRTA section 118, 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

6. The issues in this dispute are:
 - a. Must Mr. Sidhu reimburse Mr. Lawrence's damage deposit?
 - b. Must Mr. Sidhu reimburse Mr. Lawrence for sprinkler repairs?
 - c. Must Mr. Sidhu reimburse Mr. Lawrence for overpaid rent?

EVIDENCE AND ANALYSIS

7. In a civil proceeding like this one, as the applicant Mr. Lawrence must prove their claims on a balance of probabilities (meaning more likely than not). While I have read all the parties' submitted evidence and arguments, I have only referred to those necessary to explain my decision.
8. Mr. Lawrence and Mr. Sidhu undisputedly entered into a lease agreement for a commercial unit in or around November 2017. Neither party provided a copy of the lease in evidence, but they agree that it expired on January 31, 2021.
9. Much of the parties' evidence and submissions focused on their negotiations to renew the lease after it expired. I find it unnecessary to detail these negotiations here, as Mr. Lawrence did not claim any specific remedy relating to the lease renewal. Ultimately, the parties agree that Mr. Lawrence vacated the unit in July 2021.
10. In Mr. Lawrence's dispute notice, they claim \$5,435.80 associated with the lease, but it is unclear how they arrived at this amount. Mr. Lawrence claims \$2,150 for allegedly overpaid rent, a further \$2,150 for their damage deposit, and \$835.80 for a sprinkler repair bill. This totals \$5,135.80. I infer the remaining \$300 claimed is Mr. Lawrence's estimated claim for CRT fees and expenses, discussed below.
11. In any event, Mr. Lawrence's total claim is higher than the CRT's small claims monetary limit of \$5,000. In submissions, Mr. Lawrence acknowledges this and expressly limits their total claim to \$5,000.

Damage deposit

12. I begin with Mr. Lawrence's claim for their deposit of \$2,150. Mr. Lawrence refers to this deposit both as a "damage deposit" and as a "security deposit", while Mr. Sidhu refers to it as a "damage deposit". As noted, the lease is not in evidence, and neither party provided evidence about the deposit's intention. In the context of the parties' submissions, I find that the deposit was intended to pay for any damage to the unit caused during Mr. Lawrence's commercial tenancy.

13. Mr. Sidhu says the parties agreed “through various emails and texts” that the deposit would be applied to unpaid rent. However, there are no such emails or texts in evidence.
14. Mr. Sidhu provided a July 9, 2021 letter from his lawyer to Mr. Lawrence’s lawyer alleging that Mr. Lawrence owed approximately \$18,000 in unpaid rent. However, Mr. Lawrence says that in July 2021, they found a new tenant for the unit, who agreed to pay Mr. Sidhu \$12,500 for the rent arrears. Mr. Lawrence says they paid Mr. Sidhu a further \$6,000, which is supported by a July 15, 2021 cheque in evidence.
15. Mr. Sidhu does not specifically dispute that Mr. Lawrence and the new tenant paid the rent arrears in July 2021, and provided no other evidence in support of his position that the damage deposit was used to cover unpaid rent. So, to the extent Mr. Sidhu argues that the damage deposit should be set off against Mr. Lawrence’s unpaid rent, I find Mr. Sidhu has not proven that he is entitled to a set off.
16. Mr. Sidhu also alleges that Mr. Lawrence damaged the unit and left behind a mess. The burden is on Mr. Sidhu to prove that he is entitled to retain the damage deposit for this reason: see *Buckerfields v. Abbotsford Tractor and Equipment*, 2017 BCPC 185 at paragraph 5.
17. Mr. Sidhu provided photographs of the unit, which he says were taken in July 2021. They show various construction materials and debris on the unit’s floor.
18. Mr. Lawrence says that Mr. Sidhu’s photographs were taken after the new tenant began renovations in the unit. Mr. Lawrence provided their own photographs, which they say they took before the renovations started. These photographs do not show any debris, and instead only show a few pieces of furniture which Mr. Lawrence says they thought the new tenant might want to use.
19. It is not clear whether these photographs are of the same area of the unit as Mr. Sidhu’s photographs, as they show different flooring. It is also not clear precisely when either party’s photographs were taken. However, I find that nothing particularly

turns on the photographs, as ultimately Mr. Sidhu has not proven that he incurred expenses to remove garbage or repair damage.

20. I say this for two reasons. First, Mr. Sidhu says in submissions that he can have the new tenant attest to garbage and damage that Mr. Lawrence left behind. However, he did not provide a statement from the new tenant in evidence. Parties are told to submit all relevant evidence to the CRT. When a party fails to provide relevant evidence, the CRT may make an adverse inference. An adverse inference is when the CRT assumes that the reason a party did not provide evidence is that the evidence would not help their case. Here, given Mr. Lawrence's specific argument that the debris is from the new tenant's renovations, I find it appropriate to draw an adverse inference against Mr. Sidhu for failing to provide evidence from the tenant about the alleged damage and garbage.
21. Second, Mr. Sidhu alleges that it cost "in excess of \$2,000" to clean up the unit and repair damage to floor tiles. Mr. Lawrence says that any cleanup costs were paid by the new tenant. Mr. Sidhu also says that the costs were paid by the new tenant, but were deducted from the new tenant's rent payments. However, Mr. Sidhu provided no evidence that they paid anything to clean up the unit and repair the alleged damage, and no evidence to show that he deducted the cleanup costs from the new tenant's rent. So, I find Mr. Sidhu has not proven that he is entitled to retain Mr. Lawrence's damage deposit, and he must reimburse Mr. Lawrence the deposit amount.
22. In submissions, Mr. Lawrence says they paid Mr. Sidhu a deposit of \$4,328.62, with half to be used for the first month's rent and half for the damage deposit. This would mean the damage deposit amount was actually \$2,164.31. However, as Mr. Lawrence only claimed \$2,150 for the deposit in their dispute notice, I find their recovery is limited to this amount. I order Mr. Sidhu to reimburse Mr. Lawrence \$2,150 for their damage deposit.

Sprinkler system relocation

23. I turn to the sprinkler repairs. Mr. Lawrence says that they paid for the unit's sprinkler system to be relocated to meet code on behalf of Mr. Sidhu, and that Mr. Sidhu did not reimburse them. In support of this, Mr. Lawrence provided an \$835.80 invoice issued by VIP Fire Safety on January 30, 2018.
24. Based on this invoice date, there is a question as to whether the limitation period applicable to this claim has expired. Although Mr. Sidhu did not argue that any of Mr. Lawrence's claims were out of time, because the parties are lay litigants and considering the CRT's flexible and accessible mandate, I asked the parties for further submissions on the limitation period applicable to Mr. Lawrence's claims for the sprinkler relocation and for the allegedly overpaid rent, addressed below. Both parties provided submissions that I considered.
25. The *Limitation Act* (LA) applies to the CRT. The LA sets out limitation periods, which are specific time limits for bringing claims. If the time limit expires, the right to bring the claim disappears, and the claim must be dismissed. Section 6 of the LA says the basic limitation period is 2 years, and that a claim may not be started more than 2 years after the day on which it is "discovered".
26. Under section 8 of the LA, Mr. Lawrence's claims were discovered when he knew or reasonably ought to have known that he had a claim against Mr. Sidhu and that a court or tribunal proceeding was an appropriate way to seek to remedy his loss.
27. Mr. Lawrence does not say when they paid the sprinkler relocation invoice, but the invoice says that payment is due on receipt. So, I find Mr. Lawrence discovered their claim for the sprinkler repairs on the invoice date, January 31, 2018. Mr. Lawrence has not provided any evidence or explanation to support a later discovery date or an extension of the limitation period, such as an acknowledgement of the debt.
28. This means that the limitation period expired on January 31, 2020. As Mr. Lawrence filed their CRT dispute on January 4, 2023, I find this claim is out of time and I dismiss it.

29. Even if I had not found that the sprinkler repair claim was brought outside of the limitation period, I would have found that Mr. Lawrence is not entitled to payment, as I find they have not proven that they paid the invoice.
30. Mr. Sidhu says that the invoice was billed to him, and that he paid it as part of his strata fees. Mr. Lawrence did not respond to this allegation, and provided no evidence that they paid the invoice, such as a bank statement, cheque, or e-transfer receipt.
31. The invoice is the only evidence Mr. Lawrence provided in support of this claim. It is addressed to “Uncut Salon”, which I infer is Mr. Lawrence’s business that was occupying the unit. The invoice lists the “contact” as “Brent/Manjit Singh”, and does not specify which of them is responsible for payment.
32. In light of Mr. Sidhu’s specific allegation that he paid the invoice, and absent any further evidence from Mr. Lawrence to show that they paid the invoice themselves, I would have dismissed this claim in any event.

Overpaid rent

33. Mr. Lawrence says that in March 2020, Mr. Sidhu told them that their \$2,150 rent cheque for that month had not cleared. Mr. Lawrence says they provided a new \$2,150 cheque, and that Mr. Sidhu ultimately cashed both cheques.
34. In support of this, Mr. Lawrence provided a bank statement showing one withdrawal of \$2,150 on March 2, 2020 and another on March 9, 2020. Both withdrawals are labelled “Cheque”, with two different cheque numbers listed.
35. As noted, Mr. Lawrence filed their CRT dispute on January 4, 2023. As this is more than two years after the second cheque cleared, I find there is also a limitation period issue for the overpaid rent claim. As discussed above, I asked the parties to provide additional submissions about this issue.
36. Mr. Lawrence says they were not aware that both cheques were cashed until May 2021. They say this occurred during the COVID crisis, when the courts were not open,

and they ask for leniency given the circumstances. I infer Mr. Lawrence asks me to extend the limitation period because of the COVID-19 pandemic.

37. On March 26, 2020, the Minister of Public Safety and Solicitor General issued Ministerial Order 86/2020 (MO86) under the *Emergency Program Act*, which suspended mandatory limitation periods for court actions. However, the mandatory suspension did not apply to the CRT. The order said that a tribunal, such as the CRT, may waive, extend, or suspend a mandatory time period.
38. MO86 was repealed on July 10, 2020 when the *COVID-19 Related Measures Act* (CRMA) came into force. Section 3(5) and item 7 of Schedule 2 of the CRMA confirmed the limitation period suspensions set out in MO86. For clarity, under the CRMA, the CRT's authority to extend timelines was discretionary, not mandatory. The CRMA also said the suspension of limitation periods would end 90 days after the state of emergency ended, which was on June 30, 2021. This means the CRT's discretion to waive, extend, or suspend a limitation period during the COVID-19 pandemic ended on September 28, 2021, before Mr. Lawrence applied to the CRT. So, even if Mr. Lawrence's limitation period could have been extended during the COVID-19 pandemic, I find the CRT no longer has the legal authority to grant such an extension.
39. Mr. Lawrence provided no further explanation or evidence in support of their submission that they were not aware that both cheques were cashed until May 2021. In the circumstances, I find Mr. Lawrence reasonably ought to have known about the allegedly overpaid rent by at least April 30, 2020. The bank statement Mr. Lawrence provided in evidence contains transactions from March 1 to March 31, 2020. Even allowing an additional month for Mr. Lawrence to receive and review their March bank statement, this discovery date would require Mr. Lawrence to have filed this claim by April 30, 2022.
40. As noted, Mr. Lawrence filed this dispute on January 4, 2023. So, I find this claim is also out of time and I dismiss it.

INTEREST, CRT FEES, AND EXPENSES

41. The *Court Order Interest Act* applies to the CRT. Mr. Lawrence is entitled to pre-judgment interest on the damage deposit from July 22, 2021 (a date I find reasonable in the circumstances, as it is the date of a letter from Mr. Lawrence’s lawyer to Mr. Sidhu’s lawyer seeking the return of the damage deposit) to the date of this decision. This equals \$137.83.
42. 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. Mr. Lawrence was partially successful, so I find they are entitled to half of their CRT fees, which equals \$87.50.
43. Mr. Sidhu claimed \$1,500 in dispute-related expenses for “lawyer and accountant fees associated with obtaining material.” Due to a system error, this claim was originally not included in the CRT’s request for the parties’ submissions. Through staff, I invited the parties to make submissions about this claim, but neither did so. Mr. Sidhu provided no evidence in support of this expenses claim, such as an invoice from his lawyer or accountant, and did not explain why he says he incurred these expenses. I find Mr. Sidhu’s expenses claim unproven, and I dismiss it.

ORDERS

44. Within 21 days of the date of this order, I order Mr. Sidhu to pay Mr. Lawrence a total of \$2,375.33, broken down as follows:
 - a. \$2,150 as reimbursement of Mr. Lawrence’s damage deposit,
 - b. \$137.83 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$87.50 in CRT fees.
45. I dismiss Mr. Lawrence’s remaining claims and Mr. Sidhu’s claim for dispute-related expenses.

46. Mr. Lawrence is entitled to post-judgment interest, as applicable.

47. 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.

Alison Wake, Tribunal Member