



Civil Resolution Tribunal

Date Issued: March 20, 2024

File: SC-2023-001631

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Li v. Sun*, 2024 BCCRT 294

BETWEEN:

YIRAN LI

APPLICANT

AND:

YANQIU SUN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. Yiran Li rented a bedroom in a house that Yanqiu Sun owned. Ms. Li paid Ms. Sun a \$375 security deposit. When Ms. Li moved out, Ms. Sun refused to return the deposit. Ms. Li claims \$750, or double the security deposit, based on a provision in the parties'

agreement. Ms. Sun says Ms. Li damaged some things and failed to clean when she left. Ms. Sun asks me to dismiss the claim.

2. Ms. Li represents herself. Ms. Sun is represented by a non-lawyer friend. As I explain below, I find Ms. Sun must pay Ms. Li \$750.

JURISDICTION AND PROCEDURE

3. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has authority over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA says the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
4. 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.
5. 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 court.
6. The CRT generally does not have jurisdiction over residential tenancy disputes, which are within the exclusive jurisdiction of the director of the Residential Tenancy Branch (RTB) under the *Residential Tenancy Act* (RTA). However, the RTA does not apply to accommodation where a tenant shares a kitchen or bathroom with an owner. Ms. Sun undisputedly owned the home and shared the kitchen with Ms. Li. So, I find that this dispute falls within the CRT's small claims jurisdiction over debt and damages, as set out in CRTA section 118.

ISSUES

7. The issues in this dispute are:
 - a. Must Ms. Sun pay Ms. Li damages equal to double her \$375 deposit?
 - b. Is Ms. Sun entitled to any set-off for damage or cleaning costs?

EVIDENCE AND ANALYSIS

8. As the applicant in this civil proceeding, Ms. Li must prove her claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
9. The parties signed a standard "Residential Tenancy Agreement" provided by the RTB. These agreements are an imperfect fit for situations where a tenant lives with the owner-landlord. However, neither party says the tenancy agreement did not accurately capture the terms of their contract or is unenforceable.
10. As documented in the agreement, the tenancy began on September 6, 2021 and was for a fixed term ending April 30, 2022 and then continued on a month-to-month basis. The rent was \$750 per month and the security deposit was \$375. Although there is no clear documentation that Ms. Li paid the \$375 deposit, Ms. Sun does not dispute receiving it in accordance with the tenancy agreement. In June 2022, Ms. Sun told Ms. Li she needed the room for a family member. Ms. Li moved out on July 31, 2022.
11. In late July 2022, Ms. Sun was out of town. On July 30, Ms. Li texted Ms. Sun, noting that the first-floor bathroom, where the vacuum cleaner and mop were stored, was locked. Ms. Sun told Ms. Li not to worry about the floors. She said, "just wipe the table and the door of your room, and I'll take care of the floor when I get back to clean." This is Ms. Li's translation of the parties' texts, but Ms. Sun does not dispute it.
12. At some point after tenancy ended, Ms. Sun emailed Ms. Li with photos of alleged damage, and asked Ms. Li to repair the damage. Ms. Sun said if Ms. Li refused, Ms. Sun would have the damage repaired and "see you in court."

Double deposit

13. Section 4(1) of the parties' agreement said that Ms. Sun would repay the security deposit within 15 days of the tenancy's end unless 2 conditions were met. First, Ms. Li could agree in writing to allow Ms. Sun to keep the deposit as payment for unpaid rent or damage. This did not happen. Second, Ms. Sun could keep the deposit if she applied for dispute resolution under the RTA within 15 days of the tenancy's end or when Ms. Li provided a forwarding address. This also undisputedly did not happen. The CRT has held that a landlord could comply with this term by applying for dispute resolution at the CRT instead, given that the RTB declines jurisdiction over these types of disputes (see e.g., *Williamson v. Katsnelson*, 2024 BCCRT 59). However, that does not assist Ms. Sun because she did not apply to the CRT.
14. Section 4(3) of the agreement said that if Ms. Sun does not comply with section 4(1), she may not make a claim against the deposit and must pay Ms. Li double the amount of the deposit. Given that Ms. Sun did not meet the conditions to keep the deposit, I find Ms. Li is entitled to double her \$375 damage deposit, or \$750 in damages.
15. It follows that I do not need to consider whether Ms. Sun has established any rental unit damage or cleaning expenses because the parties' contract does not allow Ms. Sun to keep any part of the deposit (see *Chang v. Jiazheng*, 2021 BCCRT 1032).
16. Had the contract not prohibited Ms. Sun from keeping part of the deposit, I would likely not have allowed any set-off anyway. I find the damage shown in the photos and video evidence is mostly scuffs and scratches. The damage is consistent with reasonable wear and tear, which the contract said Ms. Li was not responsible for. While photos show a dirty bathroom, it is not clear whether the bathroom was exclusively for Ms. Li. As well, Ms. Sun's text arguably gave the impression she did not require Ms. Li to clean anything other than wiping her table and door. Finally, Ms. Sun provided no cleaning receipts or evidence of time spent cleaning.

17. The *Court Order Interest Act* applies to the CRT. Ms. Li is entitled to pre-judgment interest on the \$750 from August 17, 2022, the date the deposit refund was due, to the date of this decision. This equals \$48.60.
18. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. Ms. Li applicant was successful, so I find she is entitled to reimbursement of \$125 in paid CRT fees. Ms. Li claims \$11.12 for printing the Dispute Notice and \$12.27 for registered mail, I infer to serve Ms. Sun. These amounts are supported by receipts, so I allow this claim. Ms. Sun did not claim dispute-related expenses or pay CRT fees.

ORDERS

19. Within 14 days of the date of this order, I order Ms. Sun to pay Ms. Li a total of \$946.99, broken down as follows:
 - a. \$750 in damages,
 - b. \$48.60 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$148.39, for \$125 in CRT fees and \$23.39 for dispute-related expenses.
20. Ms. Li is entitled to post-judgment interest, as applicable.
21. This is a validated decision and order. 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.

Micah Carmody, Tribunal Member