



Civil Resolution Tribunal

Date Issued: June 19, 2024

File: SC-2023-001617

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Park v. Girardin*, 2024 BCCRT 574

BETWEEN:

SUJIN PARK

APPLICANT

AND:

BATIA GIRARDIN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Megan Stewart

INTRODUCTION

1. The applicant, Sujin Park, and the respondent, Batia Girardin, were roommates. The respondent moved out without paying their final month's rent or utility bills. The applicant claims \$1,200 for one month's rent and unpaid utility bills. She also seeks an unspecified amount for mental and emotional distress she says the respondent caused her. The applicant is self-represented.

2. The respondent says the applicant waived the final month's rent, so they do not owe her anything for that. They also say the parties agreed to split the utility bills, which they admit they have not paid for. The respondent is also self-represented.

JURISDICTION AND PROCEDURE

3. These are the Civil Resolution Tribunal's (CRT) formal written reasons. The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT generally does not have jurisdiction over residential tenancy disputes, which are within the exclusive jurisdiction of the Residential Tenancy Branch (RTB) under the *Residential Tenancy Act* (RTA). However, the RTA does not apply to accommodations where a "tenant" shares a kitchen or bathroom with an owner, which was the case here. So, I find this dispute falls within the CRT's small claims jurisdiction over debt and damages, as set out in CRTA section 118.
4. CRTA section 2 states 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. 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. Here, I find 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 an oral hearing is not necessary in the interests of justice.
6. CRTA section 42 says the CRT may accept as evidence information it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.
7. 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

8. The issues in this dispute are:
 - a. Is the applicant entitled to \$1,200 for one month's rent and unpaid utility bills?
 - b. Is the applicant entitled to compensation for mental and emotional distress?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant must prove her claims on a balance of probabilities, meaning more likely than not. I have read all the parties' submissions and evidence, but refer only to what I find necessary to explain my decision. The respondent did not make submissions other than those in the Dispute Response, and did not submit documentary evidence, despite having been given the chance to do so.
10. The parties entered into a written rental agreement around May 2022. It is undisputed that the respondent paid a damage deposit of \$445, and that the parties agreed to a monthly rent of \$890 plus utilities. The written agreement does not indicate it was for a fixed term, and there is no other evidence that it was, so I find the parties had a month-to-month rental agreement. I also find there was an implied term of reasonable notice to end the agreement.
11. At various times in the fall and into the winter of 2022-23, the parties discussed ending the agreement. On February 2, 2023, the applicant emailed the respondent to provide two months' notice to end the agreement, which I find was reasonable. The applicant asked the respondent to repair any damage to the bedroom, or she might have to keep the damage deposit. She also asked the respondent to ensure they paid their utility bills to the end of March. Finally, she wrote "I will pay for the last month rent" (reproduced as written), though the written agreement did not require this. The respondent answered by text, accepting the applicant's offer to cover the March rent. I find this exchange modified the parties' written agreement regarding the

respondent's obligation to pay March rent. The parties also signed a "mutual agreement to end tenancy" using the RTB's standard form dated February 2, 2023.

12. The parties continued to exchange messages in the following days, and the conversation deteriorated, to the point where the applicant told the respondent she had "changed (her) mind" about covering the March rent. The respondent did not accept this, and insisted the parties "stick to (their) plan".
13. On February 14, the applicant told the respondent she would honor her offer to cover the March rent if she could keep the respondent's damage deposit, the respondent paid their share of the utility bills, and the respondent cooperated with the applicant to get ready for a new renter by helping the applicant move a bed into the respondent's room. The respondent agreed. I find this agreement replaced the parties' February 2 agreement about waiving the March rent.
14. The respondent collected and delivered the bed to the applicant on February 18. However, the text message chain in evidence shows on March 9, the respondent asked the applicant to take their half of the utility bills out of "there", which the context suggests meant out of the damage deposit. This is not what the parties agreed on February 14. In response, the applicant asked the respondent to pay the March rent, saying she was evicting them because they never kept promises. The respondent did not pay the March rent or the March utility bills.
15. I find by not paying their half of the March utility bills, and instead asking the applicant to take it out of their damage deposit, the respondent breached the rental agreement as modified by the February 14 text exchange. Damages for breach of contract are generally meant to put the innocent party in the same position as if the contract had been performed as agreed (see *Water's Edge Resort v. Canada (Attorney General)*, 2015 BCCA 319. Here, if the contract had been performed, the respondent would have paid their utility bills, and the applicant would have waived the March rent but kept the damage deposit. Since it is undisputed the applicant has not returned the damage deposit, I find her damages are the equivalent of the respondent's unpaid utility bills. The applicant says these total \$176.02, though she provided no evidence

of this. But, since the respondent admits not paying the bills, and does not dispute what the applicant says they owe, I find they are responsible for \$176.02 in unpaid utilities bills. I order the respondent to pay the applicant this amount. I dismiss the applicant's claim for one month's rent.

16. The applicant also asks for an unspecified amount for mental and emotional distress. She says the respondent's behaviour, including smoking marijuana on the patio and arguing loudly with their boyfriend, created an uncomfortable and hazardous environment, and adversely affected her daily life and overall wellbeing.
17. Damages for mental distress can arise under a contract claim if there is evidence of a serious and prolonged disruption that transcends more than ordinary emotional upset and distress (see *Lau v. Royal Bank of Canada*, 2017 BCCA 253). As noted in the persuasive but non-binding decision *Eggberry v. Horn et al*, 2018 BCCRT 224, there must be some medical evidence to support a claim for stress or mental distress. The applicant did not provide evidence of distress that goes beyond ordinary emotional upset, or any medical evidence. So, I dismiss her claim for these unspecified damages.
18. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the \$176.02 damages award from March 15, 2023, the date the applicant first asked the respondent to pay this amount, to the date of this decision. This equals \$11.
19. 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. The applicant was partly successful, so I find she is entitled to half her paid CRT fees, which is \$62.50. The applicant did not claim dispute-related expenses, so I order none.

ORDERS

20. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$249.52, broken down as follows:
 - a. \$176.02 in damages for unpaid utility bills,
 - b. \$11 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$62.50 for CRT fees.
21. The applicant is entitled to post-judgment interest, as applicable.
22. I dismiss the balance of the applicant's claims.
23. 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.

Megan Stewart, Tribunal Member