



Civil Resolution Tribunal

Date Issued: June 28, 2024

File: SC-2023-004148

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Buller v. Black*, 2024 BCCRT 620

B E T W E E N :

AIMEE MICHELLE BULLER

APPLICANT

A N D :

EMILY BLACK

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Jeffrey Drozdiak

INTRODUCTION

1. This is a dispute about the return of security and pet damage deposits. The applicant, Aimee Michelle Buller, rented a room in the respondent Emily Black's house. Ms. Buller says when she moved out, Ms. Black refused to return her deposits. Ms. Buller seeks the return of \$1,112.

2. Ms. Black says when the tenancy ended Ms. Buller did not show up at the agreed time to clean the room. Ms. Black says she would have returned the deposits, but Ms. Buller refused to reimburse her \$123 for cleaning costs.
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.
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 court.
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 general, the CRT 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 accommodation where a "tenant" shares a kitchen or bathroom with an owner, which

was the case here. 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.

ISSUE

9. The issue in this dispute is whether Ms. Black should return Ms. Buller's security and pet damage deposits.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Ms. Buller, as the applicant, must prove her claims on a balance of probabilities (meaning "more likely than not"). Except for her Dispute Response, Ms. Black did not provide any evidence or submissions even though CRT staff followed up with her multiple times. So, I have reviewed the Dispute Notice, Dispute Response, and Ms. Buller's evidence and submissions. I refer only to the evidence and argument that I find relevant to provide context for my decision.
11. Ms. Buller provided evidence and submissions on an issue she had with Ms. Black during the tenancy about DoorDash credit card charges. I find these allegations are not relevant to the issues in this dispute. So, I do not comment further on them in this decision.
12. On August 16, 2022, the parties signed a standard-form residential tenancy agreement for Ms. Buller to rent an upstairs room in Ms. Black's house. As noted above, the RTA does not apply to this dispute. However, to the extent the parties incorporated RTA provisions into their agreement through the RTB's standard-form residential tenancy agreement, those are contractual terms that bind the parties.
13. Under the tenancy agreement, Ms. Buller paid Ms. Black a \$556 security deposit and a \$556 pet damage deposit. The tenancy began on August 20, 2022, and continued on a month-to-month basis.
14. In late November 2022, Ms. Buller says she moved to a downstairs bedroom because a new roommate was going to rent the upstairs bedroom.

15. On January 30, 2023, Ms. Buller wrote to Ms. Black giving notice that she would be moving out. Ms. Buller moved out on February 28, 2023.

Should Ms. Black Return Ms. Buller's Security and Pet Damage Deposits?

16. Ms. Buller says after she moved out, Ms. Black refused to return her security and pet damage deposits. She says Ms. Black wanted her to pay \$123 in cleaning costs. Ms. Buller disputes these costs, as she says Ms. Black refused to let her back into the house to clean.

17. Since Ms. Black did not provide any evidence or submissions, I rely only on her Dispute Response and Ms. Buller's evidence to understand her position. In the Dispute Response, Ms. Black says:

- a. Ms. Buller agreed to come by the house at 10 a.m. on February 28, 2023 to clean the room.
- b. She waited 30-40 minutes and Ms. Buller never showed up.
- c. At 10:40 a.m. she texted Ms. Buller that she had appointments later in the day, a new tenant was moving in, and she would take the cleaning costs off the damage deposit.
- d. At 10:55 a.m. Ms. Buller texted that she slept in and was on her way now.
- e. In response, she texted Ms. Buller "no".

18. Ms. Buller provided her February 27 – 28, 2023 text message conversation with Ms. Black. I find the messages are consistent with what Ms. Black says happened.

19. Ms. Buller provided an email from Ms. Black that she received on April 12, 2023. In the email, Ms. Black said she will only return the deposits once Ms. Buller agreed to pay the cleaning costs, which included:

- a. \$40 for 2 hours cleaning the downstairs room's walls, baseboards, floors, and windows.

- b. \$83 for 1/3 of the cost to clean the upstairs room's carpets.
20. In the Dispute Response, Ms. Black says Ms. Buller did not respect a contract to show up on time to clean the room. So, she says Ms. Buller should pay the cleaning costs. I disagree. Section 14(6) of the tenancy agreement said Ms. Buller must leave the property by 1:00 p.m. on the day the tenancy ends. Since I find the tenancy ended on February 28, 2023, I find Ms. Buller had until 1:00 p.m. that day to finish cleaning. However, I find nothing turns on this given the specific terms of the tenancy agreement.
21. Section 4(1)(c) of the tenancy agreement said that Ms. Black must repay the security and pet damage deposits within 15 days, unless:
- a. Ms. Buller agreed in writing to allow Ms. Black to keep the deposits as payment for unpaid rent or damage, or
 - b. Ms. Black applied for dispute resolution under the RTA to keep the deposits.
22. Section 4(2) of the tenancy agreement said the 15-day period starts either at the end of the tenancy, or when Ms. Buller provided Ms. Black with a forwarding address. Ms. Buller provided a February 28, 2023 email where she sent Ms. Black a forwarding address. So, I find the 15-day period started on February 28, 2023.
23. Ms. Buller says she did not agree with Ms. Black keeping part of her deposit for cleaning costs. So, to keep the deposits, Ms. Black must have applied for dispute resolution by March 15, 2023. I note that the RTB declines jurisdiction over these types of disputes. The CRT has held that a roommate-type landlord can comply with this term by applying for dispute resolution at the CRT (see *Williamson v. Katsnelson*, 2024 BCCRT 59).
24. Ms. Black did not provide any evidence that she applied for dispute resolution by March 15, 2023 to keep the deposits. So, I find Ms. Black did not comply with section 4(1)(c) of the tenancy agreement, and she must return the deposits.

Conclusion

25. In conclusion, I find Ms. Black must return the \$556 security deposit and \$556 pet damage deposit to Ms. Buller.
26. The *Court Order Interest Act* applies to the CRT. Ms. Buller is entitled to pre-judgment interest on the \$1,112 from March 15, 2023, the date the damage deposits should have been returned, to the date of this decision. This equals \$70.91.
27. 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. Ms. Buller was successful, so, I find she is entitled to reimbursement of \$125 in CRT fees. Ms. Buller did not claim dispute-related expenses, so I order none.

ORDERS

28. Within 14 days of the date of this order, I order Ms. Black to pay Ms. Buller a total of \$1,307.91, broken down as follows:
 - a. \$1,112 in debt,
 - b. \$70.91 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 for CRT fees.
29. Ms. Buller is entitled to post-judgment interest, as applicable.
30. 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.

Jeffrey Drozdiak, Tribunal Member

