



Civil Resolution Tribunal

Date Issued: September 13, 2024

File: SC-2023-007085

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Blunston v. Staley*, 2024 BCCRT 904

BETWEEN:

D'ARCY BLUNSTON and LUC MILLARAY BURNS SILVA

APPLICANTS

AND:

MICHAEL STALEY and I.A.S. INTERNATIONAL ANALYTIC SCIENCE LTD. DBA TIGH-NA CLAYOQUOT VACATION HOUSE

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about short-term rental accommodations. The applicants, D'Arcy Blunston and Luc Millaray Burns Silva, stayed at the property of the respondents, Michael Staley and I.A.S. International Analytic Science Ltd. dba Tigh-Na Clayoquot Vacation House (IAS). The applicants say the respondents breached their privacy

and a verbal agreement for a refund. They claim a total of \$1,026.60 and an unspecified amount for tax.

2. The respondents deny liability. They say they entered the house because the applicants breached the short-term rental agreement by having too many guests. They deny the existence of a binding agreement for a refund or breaching the applicants' privacy.
3. Ms. Blunston represents the applicants and relies on evidence uploaded by Mr. Silva. Mr. Staley represents the respondents.
4. For the reasons that follow, I find Ms. Blunston has partially proven her claims.

JURISDICTION AND PROCEDURE

5. 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. In resolving disputes, the CRT must apply principles of law and fairness.
6. 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.
7. 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.

8. 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.

ISSUES

9. The issues in this dispute are as follows:
 - a. Did any respondents breach alleged contract terms to provide a refund to or privacy for the applicants?
 - b. If so, what is the appropriate remedy?

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicants must prove their claims on a balance of probabilities. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
11. A May 29, 2021 email partially documents the short-term rental contract. It shows that Ms. Blunston booked 3 nights' stay through an intermediary website called VRBO Canada (VRBO). The stay was from September 6 to 9, 2021. The hosts' names were JF and Mr. Staley. Mr. Silva and IAS are not named in the email. So, I find Ms. Blunston alone contracted with Mr. Staley and JF. JF is not a party to this dispute.
12. The email shows the cost included the following: \$885 for 3 nights' accommodation, \$200 for a cleaning fee, \$130 for VRBO's service fee, and \$173.60 tax, for a total of \$1,388.60. It is undisputed that Ms. Blunston paid this amount in full by July 31, 2021.

13. The parties' submissions are consistent on the following. The applicants and 5 of their friends took 2 separate cars to the rental property. The group then left for a brewery, save for 2 individuals, SC and M.
14. SC went to sleep as she had a migraine. M stayed up to work on a computer. JF and Mr. Staley entered the property. The applicants provided partial audio recordings of what happened next. In summary, JF was upset that M was using the bedroom. JF said that this breached the contract term that there were only 2 guests. JF said additional guests would have cost more money. JF also said that too many cars were blocking the driveway. JF said everyone except the applicants had to leave. Mr. Staley and JF said that the contract could continue if the applicants and other visitors complied.
15. Mr. Silva and Mr. Staley had a discussion at around 9:30 p.m. They disagree on what they said. The applicants allege they verbally agreed on the following. If the applicants and the other visitors all left, Mr. Staley would provide Ms. Blunston a full refund minus cleaning fees and VRBO administrative fees.
16. The respondents disagree. They say that Mr. Silva and Mr. Staley only had exploratory discussions. They also say that Mr. Silva lacked authority to make such an agreement as he was not part of the rental agreement, nor did he act as Ms. Blunston's agent.
17. Overall, I find it proven that Mr. Silva and Mr. Staley entered into the agreement as alleged by the applicants. I say this for this for the following reasons.
18. First, it is undisputed that the applicants and the other visitors left that night. This is consistent with the applicants acting on the alleged verbal agreement. Second, in a September 7, 2021 email, the respondents referred to the existence of this agreement in general terms. I will return to this email below. Finally, Mr. Silva recorded comments in a verbal discussion with Mr. Staley. In summary, they indicate that Mr. Silva would only pay for VRBO administrative fees and cleaning fees.

19. I also find it likely that Mr. Silva had authority to negotiate on Ms. Blunston's behalf. This is partly because the applicants say so, but also because in the September 7, 2021 email, the respondents explicitly noted that Mr. Silva had negotiated an agreement on Ms. Blunston's behalf.
20. If I am wrong, I would still find that Mr. Silva had a binding agreement with Mr. Staley to deliver the rental property to him that night free of occupants, and in return the applicants would only be liable for the fees discussed above. This is because I find there is nothing that prevented those 2 individuals from entering into such a contract. This would only change which applicant Mr. Staley is liable to.
21. There is no indication that IAS was part of the refund agreement, so I dismiss the refund claims against it.
22. It is undisputed that all occupants left the property that night. As such, I find that Ms. Blunston, or alternatively, Mr. Silva, fulfilled their part of the verbal agreement.
23. The respondents say that the agreement included a term that Mr. Silva tell Ms. Blunston to contact VRBO and release the rental property for the nights of September 7 and 9, 2021. The respondents say that Ms. Blunston did not reply to his request until September 13, 2021, by which time it was impossible for the respondents to rent the property to someone else.
24. As the respondents allege this term, I find they have the burden to prove it. Ultimately, I find it unlikely that any applicants agreed to this term. It is not referred to in the respondents' September 7, 2021 email. Instead, the respondents only said that the applicants should have VRBO contact the respondents to "implement the agreement". I find this too vague to support the respondents' allegation.
25. Given the above, I find that Mr. Staley breached his verbal agreement with Ms. Blunston to provide a refund of \$885 plus GST and PST for a total of \$991.20. This is the accommodation fee only and does not include the cleaning fee or VRBO administrative fee. I order Mr. Staley to pay this amount to Ms. Blunston.

26. As for the applicants' claim for breach of privacy, I dismiss it for the following reasons.
27. The applicants say the respondents placed security cameras around the property. They say these cameras breached VRBO's rules about surveillance devices, and these rules are part of the rental contract. They also say the respondents breached their privacy by entering the rental property.
28. The respondents say JF and Mr. Staley entered the property because they had to make reasonable inquiries about who was in the house. They did not directly address the surveillance devices.
29. Overall, there is no evidence about the quantity or location of any surveillance devices on the property. JF referred to their existence in the recording, but the VRBO policy does not prohibit all surveillance devices. Instead, it only prohibits them in certain locations. Given the lack of evidence or other specifics about the cameras, I find this claim unproven.
30. I also find it unproven that any of the respondents breached the applicants' privacy by entering the property. The recordings indicate that the applicants, JF, and Mr. Staley wished to discuss the matter at the property. Further, the applicants did not request a specific remedy for breach of privacy. So, I dismiss this part of the claim as well.
31. The *Court Order Interest Act* applies to the CRT. Ms. Blunston entitled to pre-judgment interest on damages of \$991.20 from September 6, 2021, the date of the agreement to the date of this decision. This equals \$94.53.
32. I dismiss the applicants' remaining claims.
33. 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. I see no reason in this case not to follow that general

rule. I find the applicant is entitled to reimbursement of \$125 in CRT fees. The parties did not claim any specific dispute-related expenses.

ORDERS

34. Within 30 days of the date of this order, I order Mr. Staley to pay Ms. Blunston a total of \$1,210.73, broken down as follows:

c. \$991.20 as a partial refund,

d. \$94.53 in pre-judgment interest under the *Court Order Interest Act*, and

e. \$125 in CRT fees.

35. Ms. Blunston is entitled to post-judgment interest, as applicable.

36. I dismiss the applicants' remaining claims.

37. 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.

David Jiang, Tribunal Member