



Civil Resolution Tribunal

Date Issued: October 28, 2024

File: SC-2023-008421

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Fu v. Yang*, 2024 BCCRT 1081

BETWEEN:

MENGRAN FU

APPLICANT

AND:

WEI YANG

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. The applicant, Mengran Fu, rented a room from the respondent, Wei Yang. When the applicant moved out, the respondent retained \$220 of her security and pet deposits. The applicant says the respondent was not entitled to do so, and claims a refund of the \$220.

2. The respondent says that they were entitled to retain \$200 as a pet fee because the applicant had more cats than the parties agreed, and kept them in the home for longer than agreed. They also say they charged a \$20 common area carpet cleaning fee for grease stains. I infer the respondent asks me to dismiss this dispute.
3. Both parties are self-represented.
4. For the following reasons, I allow the applicant's 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). The CRT generally does not have jurisdiction over residential tenancy disputes, which are within the exclusive jurisdiction of the Residential Tenancy Branch under the *Residential Tenancy Act* (RTA). However, the RTA does not apply to roommate situations, like this one. So, I am satisfied that this dispute is a contractual dispute within the CRT's small claims jurisdiction.
6. CRTA section 2 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
7. CRTA section 39 says the CRT has discretion to decide the hearing's format, including by writing, telephone, videoconferencing, email, or a combination of these. Here, neither party requested an oral hearing, and I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Considering the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
8. CRTA section 42 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.

9. 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.

ISSUE

10. The issue in this dispute is whether the respondent must refund \$220 of the applicant's security and pet deposits.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the burden is generally on the applicant to prove her claims a balance of probabilities, meaning more likely than not. However, as the party seeking to keep the applicant's security or pet deposits, the respondent must prove any damage to the property entitling them to keep either deposit (see *Buckerfields v. Abbotsford Tractor and Equipment*, 2017 BCPC 185).
12. Both parties provided evidence and written arguments, but the applicant did not provide final reply submissions, despite having the opportunity to do so. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
13. The respondent uploaded photographs in a format not accepted by the CRT. CRT staff informed the respondent of this and gave them an opportunity to reupload the photographs in a different format, but the respondent did not do so.
14. The respondent also submitted text messages between the parties that are not in English, but provided English translations of the messages. As the applicant does not dispute the translations' accuracy, I accept the translations as accurate and have relied on these messages.
15. The applicant undisputedly rented a room in the respondent's home from May 20 to August 20, 2023. A May 20, 2023 residential tenancy agreement shows the applicant as the tenant, and A/J International Settlement Group as the landlord. As there is no

suggestion that A/J is an incorporated company, and as the parties agree that the respondent was the applicant's landlord, I infer that the respondent does business as A/J. I am satisfied that the tenancy agreement is between the applicant and the respondent.

16. The tenancy agreement shows that the applicant agreed to pay the respondent \$1,050 per month in rent. It also shows that the applicant paid the respondent a \$500 security deposit and a \$200 pet damage deposit on May 20, 2023. The agreement says that the respondent will repay the deposits to the applicant within 15 days of the end of the tenancy agreement, unless the applicant agrees in writing to allow the respondent to keep an amount as payment for unpaid rent or damage, or the respondent applies for dispute resolution under the RTA within 15 days to claim some or all of the deposits.
17. The applicant moved out of the respondent's home on August 20, 2023. The respondent deducted the following amounts from the deposit refund:
 - a. \$200 for a pet fee,
 - b. \$20 for cleaning the house's common area, and
 - c. \$60 for cleaning the carpet in the applicant's room.
18. The applicant did not agree to these deductions when she moved out. In this dispute, the applicant does not dispute the \$60 carpet cleaning fee. However, she says the respondent should not have charged the \$200 pet fee or the \$20 common area cleaning fee. She claims a \$220 refund from the respondent.

\$200 pet fee

19. The respondent says the applicant asked if she could bring two cats to the home for the first month that she lived there, as she was taking care of the cats for her parents while they were out of the country. The respondent says that the applicant agreed to pay a pet fee of \$100 per month. They say the applicant actually kept the cats there for two months, and later brought a third cat into the home.

20. In contrast, the applicant says that she initially offered to pay an additional monthly pet fee, but that the parties did not agree to any pet fees other than the pet damage deposit discussed above. The applicant agrees that the two cats stayed for longer than one month because her parents were delayed in returning to Canada. She also agrees that she brought a third cat into the home, but says this was only for a few days as she was looking after the cat for a friend. The applicant says that the cats were kept in her room for her entire tenancy, and did not cause any damage to the home.
21. I find the evidence supports the applicant's position. First, the parties' tenancy agreement does not mention a monthly pet fee, or any restrictions on the number of pets allowed. The tenancy agreement contains an option for the parties to include additional terms as an addendum, but has no such addendum attached.
22. Second, text messages between the parties in evidence show that on May 6, 2023, the applicant asked the respondent if she could have two cats in the home for one month. In the messages, the applicant offered to pay an extra 100 yuan (approximately \$20 CAD) in rent for that month, and to pay for any damage the cats caused. The respondent replied that the cats could stay in the applicant's room, but could not go downstairs due to the respondent's children's allergies.
23. In a later message, the respondent confirmed that the applicant would pay a \$500 deposit, \$1050 in rent, and a \$200 pet deposit. The message does not mention an additional pet fee.
24. Based on the parties' tenancy agreement and these messages, I agree with the applicant that she did not agree to pay a pet fee of \$100 per month as the respondent argues. Although the applicant offered to pay an additional fee, there is no evidence before me that the parties agreed on a pet fee amount.
25. I acknowledge that the applicant's two cats stayed in the home for longer than the parties originally agreed, and that the applicant had a third cat at the home for a few days. The respondent says that this was a breach of the parties' agreement.

However, the respondent has not provided any evidence that they suffered any damages as a result of the extended stay or the additional cat. So, I find they were not entitled to deduct anything from the applicant's deposits for the pets. I find the respondent must refund the \$200 pet fee to the applicant.

\$20 common area carpet cleaning fee

26. The respondent says that the common area carpet had to be cleaned because of grease stains. The applicant disputes that she is responsible for the stains, and says that the carpet was already stained before she moved in.
27. An August 20, 2023 condition inspection report, completed when the applicant moved out, says that the carpet and shower door need cleaning. However, the report only notes carpet cleaning is required in the "bedroom" section, so I find it does not assist the respondent.
28. The respondent relies on an August 18, 2023 text message they sent to the applicant, which mentioned a carpet stain in the living room. They asked the applicant which one of the tenants made the stain, and asked her to confirm before she moved out if it would be cleaned or if the carpet needed to be replaced.
29. The applicant denies staining the common area carpet. She provided witness statements from the other two tenants, DH and KZ. The statements both say that the carpet was visibly stained before the applicant moved in. The respondent says that I should place no weight on these witness statements, because the applicant has a romantic relationship with the other tenants. The applicant did not respond to this assertion.
30. However, I find that even if I do not consider the witness statements, the respondent has not established that the applicant stained the carpet. As noted, the respondent's August 18 text message acknowledges that one of the other tenants may have stained the carpet. Further, there is no evidence before me of the carpet's condition before the applicant moved in. Finally, other than the August 18 text message, the respondent provided no evidence of the alleged stains. Overall, I find the respondent

has not established that the applicant stained the carpet. So, I find the respondent was not entitled to keep the \$20 carpet cleaning fee, and I order them to refund this amount to the applicant.

Conclusion

31. In summary, I find the respondent must refund \$220 to the applicant. I note that the parties' tenancy agreement says that the respondent must pay double the deposit amount if they do not repay it to the applicant in accordance with the agreement's terms. However, as the applicant did not make a claim for any additional amounts, I only order a refund of the claimed \$220.
32. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the \$220 refund from September 4, 2023, the date the respondent was required to return the deposits to her, to the date of this decision. This equals \$12.84
33. Under CRTA section 49 and the CRT Rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As the applicant was successful, I order the respondent to pay her \$125 for CRT fees. Neither party claimed dispute-related expenses.

ORDERS

34. Within 21 days of this decision, I order the respondent to pay the applicant a total of \$357.84, broken down as follows:
 - a. \$220 as reimbursement of the applicant's security and pet deposits,
 - b. \$12.84 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
35. The applicant is entitled to post-judgment interest, as applicable.

36. This is a validated decision and order. Under CRTA section 58.1, 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