



Civil Resolution Tribunal

Date Issued: March 11, 2025

File: SC-2023-011847

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Janes v. Novak*, 2025 BCCRT 314

B E T W E E N :

MEGAN JANES and FREYA MCCRAE

APPLICANTS

A N D :

ARIEL WEISER NOVAK

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Amanda Binnie

INTRODUCTION

1. The applicants, Megan Janes and Freya McCrae, attempted to rent a room from the respondent, Ariel Weiser Novak. The applicants say they paid the respondent \$1,400 for the last month's and \$700 for half the first month's rent, but the house was unclean and the bedroom was full of the respondent's furniture. They say they could not move in, and claim a \$2,100 refund.

2. The respondent denies that there were any issues with the unit's condition. Further, the respondent says he told the applicants it would only be fully cleared out on September 1, but the applicants could move in halfway through August. Finally, the respondent says he offered to reimburse the applicants \$600, which was his remaining loss after finding a new tenant. He also says he has lost money renting at a lower rate.
3. Mx. Janes represents the applicants. The respondent is 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 *Civil Resolution Tribunal Act* (CRTA) section 118. CRTA section 2 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.
5. 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, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. I also find credibility is not a significant issue in this dispute, and the parties' interactions are well-documented in their messages. 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. 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.
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.

8. Residential tenancy disputes are generally within the exclusive jurisdiction of the Residential Tenancy Branch (RTB) under the *Residential Tenancy Act* (RTA). However, the RTB declines jurisdiction over roommate disputes like these. So, I find the RTA does not apply and this dispute is within the CRT's small claims jurisdiction over debt and damages.

ISSUES

9. The issues in this dispute are:
 - a. Are the applicants entitled to a refund of \$2,100?
 - b. Is the respondent entitled to a set-off for lost rent?

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. Most of the parties' interactions are documented in Facebook or text messages, after one of the applicants reached out to the respondent about renting a room in July 2023. It is difficult to tell which applicant is messaging at any point, because it appears to switch through the conversation. However, I find it was always one of the applicants messaging the respondent.
12. From the messages, I find the parties agreed to the following.
13. The applicants would sublet a bedroom in the house the respondent was renting. The applicants would pay \$1,100 in rent when the respondent was also living in the home, and \$1,400 when he was away. I infer the respondent was to stay in the other bedroom when he was home.

14. After some discussion, the applicants were to move in partway through August, but I find they agreed some of the respondent's furniture would remain in the bedroom until September 1. This furniture was a bed and bunkbed. The parties agreed to a reduced rent of \$700 for August.
15. The parties agree that the applicants paid \$700 for half of August's rent and \$1,400 for the last month's rent, which was to be March or April. Though the parties discussed a security deposit, I find no deposit was ever paid.
16. The applicants attempted to move in on August 18, but the respondent had left more belongings than they expected in the bedroom and the house was not clean. There were some discussions about the applicants doing some of the cleaning work and the respondent reimbursing them, but no agreement was reached. As a result, the applicants did not move in.
17. The parties then discussed a refund when the respondent re-rented the room. The respondent says he did not do so until November, and was forced to rent at only \$1,200. However, the respondent also says that he was able to recover \$600 from the \$2,100 the applicants paid. It is undisputed the respondent has not refunded the applicants any portion of the \$2,100.

Are the applicants entitled to a refund of \$2,100?

18. The parties did not have an agreement about how either party could end the roommate agreement. However, contracts may have implied terms, which are terms the parties did not consider or discuss, but are based on the parties' presumed intentions. Previous CRT decisions have found roommate agreements include an implied reasonable notice period of one month (see: *Anderson v. Kuzmick*, 2023 BCCRT 106 and *Phillips v. Roberts*, 2021 BCCRT 109). While not binding on me, I accept this reasoning and apply it here.
19. I accept that the applicants did not give appropriate notice of their intention to end the parties' agreement. However, this does not end matters as I must consider whether the respondent breached the parties' agreement.

20. Previous CRT decisions have found an implied term of roommate agreements is cleanliness and reasonable access to shared spaces (*Berlin v. Diaz*, 2020 BCCRT 847).
21. While CRT decisions are not binding on me, I find the parties agreed the respondent would clean the home before the applicants moved in. I also find the applicants told the respondent exactly which furniture they were bringing, and he agreed there would be room for that furniture in the bedroom. Finally, the respondent told the applicants they would have one of two fridges for their use.
22. I turn to the applicants' evidence, which is videos and photos taken on the day the applicants were to move in. This evidence shows a full and dirty fridge, a dirty toilet, and more furniture than just the respondent's bed and bunkbed in the bedroom. Based on this video, I find it unlikely there would be any room to move around in the bedroom once the applicants added their furniture.
23. The respondent does not dispute that the applicants' evidence accurately reflects the house the day that the applicants tried to move in. Instead, the respondent explains in messages to the applicants that day, that he was unable to get a cleaner before the applicants moved in. He also admits he forgot to remove additional furniture from the bedroom.
24. I find the respondent was aware the applicants could not move their furniture in until he made space. This is supported by his messages saying the other roommate, M, had agreed to take on some of the furniture.
25. The respondent suggested the applicants could have taken 3 hours to clean the house, which he offered to pay at \$30 per hour. I find there was nothing requiring the applicants to accept this offer.
26. Based on the above, I find the respondent breached the parties' agreement by not providing clean shared spaces or sufficient space in the bedroom for the applicants' furniture and belongings. This finding is not changed by the applicants' agreement

that some furniture remain in the bedroom for August, because I find the respondent left more than the parties agreed to.

27. This is further supported by the parties' messages, where the respondent appears to accept that the unit was not ready for the applicants to move in. Though he argues in submissions the applicants likely found another place to live and were looking for an excuse not to move in, I find this argument speculative and unsupported by any evidence.
28. I find the appropriate remedy for the respondent's breach of the contract are damages, which are meant to put the applicants in the position they would have been in if the contract had been carried out as agreed (see: *Water's Edge Resort Ltd. v. Canada (Attorney General)*, 2015 BCCA 319).
29. Here, I find the applicants had no benefit from the parties' agreement and were left to find alternative accommodations at the last minute. So, I find the respondent must refund the applicants the full \$2,100 they paid him.
30. As I find the respondent breached the parties' contract, I find he is not entitled to a set-off for lost rent.

FEES AND EXPENSES

31. The *Court Order Interest Act* applies to the CRT. The applicants are entitled to pre-judgment interest on the \$2,100 from August 19, 2025, the date they asked for return of the deposit, to the date of this decision. This equals \$122.20.
32. Under CRTA section 49 and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Though the applicants were successful, they did not pay any fees or claim any dispute-related expenses.
33. The respondent claims \$350 (14 hours at \$25 per hour) to find new roommates, as well as the \$2,400 in reduced rent noted above, as dispute-related expenses. I found

already the respondent is not entitled to reimbursement for reduced rent since he breached the contract.

34. As the respondent was not the successful party, I also dismiss his claim reimbursement for his time spent searching for new roommates. In any event, he provided no supporting documentation or breakdown of how he came to 14 hours.

ORDERS

35. Within 30 days of the date of this decision, I order the respondent to pay the applicants a total of \$2,222.20, broken down as follows:

- a. \$2,100 in damages, and
- b. \$122.20 in pre-judgment interest under the *Court Order Interest Act*.

36. The applicants are entitled to post-judgment interest, as applicable.

37. I dismiss the respondent's claim for dispute-related expenses.

38. 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.

Amanda Binnie, Tribunal Member