



Civil Resolution Tribunal

Date Issued: March 14, 2025

File: SC-2023-009760

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Day v. Marquette*, 2025 BCCRT 335

B E T W E E N :

RHONDA ELAINE DAY

APPLICANT

A N D :

MICHELLE MARQUETTE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Mark Henderson

INTRODUCTION

1. This is a roommate dispute. The applicant, Rhonda Elaine Day, says the respondent, Michelle Marquette, evicted them before the end of the rental term. The applicant seeks \$288 for the damage deposit, \$191.65 for the remaining 10 days of rent, and \$200 for housesitting for the respondent.

2. The respondent refuses to return the damage deposit because she says the applicant damaged the rental unit. The respondent also denies owing the other amounts claimed.
3. Both parties are 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 says 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 find that an oral hearing is not necessary.
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. 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 roommate disputes. Here, the parties say that the applicant and respondent both lived in the residence. I am satisfied that the applicant shared the residence with the respondent. So, I find this dispute is within the CRT's small claims jurisdiction over debt and damages.

ISSUES

9. The issues in this dispute are:
 - a. Is the applicant entitled to return of their damage deposit?
 - b. Is the applicant entitled to a partial rent refund or compensation for housesitting?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant 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. The applicant and the respondent undisputedly made a verbal tenancy agreement for the applicant to rent a room in the respondent's house for a few months. The parties dispute whether the tenancy began on June 1 or 2, 2023. I find that nothing turns on the specific start date.
12. The applicant provided evidence of e-transfers for rent for June, July, August and September 2023. The applicant paid \$575 per month for rent. The tenancy ended when the respondent asked the applicant to leave the residence on September 20 or 21, 2023. The applicant says the respondent evicted them on September 20. The respondent says she asked the applicant to leave on September 21. I discuss the specific date in more detail below.
13. The applicant also claims \$200 for housesitting from July 20 to July 30, 2023. The applicant did not provide any evidence that the respondent had agreed to pay the applicant to housesit during this time. Without any evidence of an agreement to pay for housesitting, I find the applicant cannot claim a housesitting fee. So, I dismiss this part of the applicant's claim.

Is the applicant entitled to the return of their damage deposit?

14. The applicant provided evidence of a \$288 e-transfer payment on May 25, 2023, for a damage deposit for the tenancy. As the party seeking to retain the damage deposit, the respondent must prove that the applicant damaged the property. The respondent provided several photographs showing damage to the rental unit. The photographs are not dated. The respondent provided no evidence to show the damage occurred during the applicant's tenancy. The best practice, and the method required under the RTA, to prove tenant damage is to conduct a joint inspection at the beginning and end of the tenancy and agree on any damage observed or take photographs of damage during each inspection. At the end of the tenancy, any damage present at the move-out inspection that was not present at the move-in inspection is the tenant's responsibility.
15. Here, neither party provided evidence of a joint inspection at the start or end of the tenancy. Since this roommate tenancy agreement was not subject to the RTA, a joint inspection was not required. However, I find the respondent has not provided any additional evidence to support the allegation that the damage shown in the photographs happened during the applicant's tenancy. So, I find the respondent has not proved the applicant caused the damage shown in the photographs provided. For these reasons, I find the applicant is entitled to the return of their \$288 damage deposit.

Is the applicant entitled to a partial rent refund?

16. The applicant paid the September rent. The respondent asked the applicant to leave with either nine or ten days remaining in September.
17. The applicant says the respondent asked them to leave because the applicant asked the respondent to turn on the heat. The respondent says the applicant did not follow agreed guidelines for housekeeping, including maintaining cleanliness in the kitchen, bathroom and laundry room. The respondent also said the applicant failed

to properly use the alarm system to ensure the residence's overall safety. The applicant says these were ongoing problems since at least June.

18. In her submissions, the respondent acknowledges a dispute with the applicant on September 21, about turning on the heat in the residence. The respondent says she asked the applicant to leave the residence immediately because she felt unsafe.
19. The respondent says the applicant called the police because the respondent had raised her voice to the applicant. The respondent says that she later communicated to the applicant through a police officer that the applicant could stay in the residence until the end of September. The respondent provided a copy of a police constable's card with a file number written on it. The respondent provided no other evidence to support her version of events, such as a text message or e-mail that she offered to let the applicant stay until the end of September.
20. I find it was likely an implied term of the parties' agreement that the respondent had to provide the applicant reasonable notice before evicting them.
21. Despite the ongoing problems with the applicant's cleanliness, and using the alarm system improperly, I find the respondent did not terminate the tenancy at any earlier period because of these issues. I find the specific incident that caused the eviction notice was the September incident and not the ongoing cleanliness or alarm issues. Also, to the extent that the applicant's behaviour amounted to a breach of an implied or agreed term of cleanliness, I find the applicant was still entitled to reasonable notice of eviction.
22. Since the applicant had paid for the full month, I find the eviction before the end of September without reasonable notice amounts to a breach of contract. 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).
23. The applicant provided an e-mail they sent to the respondent on September 20, 2023, to tell the respondent that they would bring family members to help them

collect their belongings. Based on the date of this e-mail, I prefer the applicant's evidence that the eviction occurred on September 20, 2023, and the applicant moved her belongings out of the residence sometime after September 20, 2023. So, I find the applicant is entitled to rent reimbursement for the last 10 days of September. I find the applicant is entitled to \$191.66 ($\$575 / 30 \times 10$).

24. In their Dispute Notice, the applicant also says they stayed at a hotel on September 26, 2023. The applicant said the hotel cost was \$82. However, the applicant did not include the hotel invoice in their evidence or include the hotel cost in the amount claimed in their Dispute Notice. For these reasons, I make no findings about the alleged \$82 hotel cost.
25. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the \$479.66 from September 20, 2023, the date of the eviction to the date of this decision. This equals \$34.42.
26. 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. 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. Neither party claimed dispute-related expenses.

ORDERS

27. Within 30 days of the date of this decision, I order the respondent, Michelle Marquette, to pay the applicant, Rhonda Elaine Day, a total of \$639.08, broken down as follows:
 - a. \$479.66 in debt,
 - b. \$34.42 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
28. The applicant is entitled to post-judgment interest, as applicable.

29. 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.

Mark Henderson, Tribunal Member