



Civil Resolution Tribunal

Date Issued: April 2, 2025

File: SC-2024-000774

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Germain-Macarthur v. Leonard*, 2025 BCCRT 412

B E T W E E N :

HOPE JESSE GERMAIN-MACARTHUR

APPLICANT

A N D :

MATHIEU LEONARD

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Maria Montgomery

INTRODUCTION

1. This dispute is about a failed roommate arrangement. The applicant, Hope Jesse Germain-Macarthur, says the respondent, Mathieu Leonard, breached their agreement to provide safe and habitable housing. She seeks the return of \$1,089 paid in rent and \$1,350 paid as a security deposit.

2. Mr. Lenoard says he provided safe housing as per their agreement. He asks that I dismiss this claim.
3. Both parties are self-represented.

JURISDICTION AND PROCEDURE

4. The Civil Resolution Tribunal (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. These are the CRT's formal written reasons.
5. Section 39 of the CRTA says the CRT has discretion to decide the hearing's format, including by writing, telephone, videoconferencing, email, or a combination of these. The parties in this dispute appear to question each other's credibility or whether they are telling the truth about certain events.
6. In *Downing v. Strata Plan VR2356*¹ the court recognized that oral hearings are not necessarily required where credibility is at issue. It depends on what turns on credibility, the importance of those questions, and the extent to which cross-examination may assist in answering those questions.
7. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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.
8. 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.
9. Generally, 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 RTB declines jurisdiction over roommate disputes not involving the landlord, like this one. So, I find the RTA does not apply and this is a contractual dispute within the CRT's small claims jurisdiction over debt and damages. It follows that I am not able to consider Ms. Germain-MacArthur's arguments based on section 37 of the RTA as it does not apply to the parties' agreement.

10. Some of the evidence in this dispute was submitted in French, with no translation provided. CRT rule 1.7(5) says all information and evidence must be in English or translated to English. In making my decision I have not relied on any evidence that was not in English and did not have an accompanying English translation.
11. The majority of the parties' Facebook and What's App messages were not in English. Ms. Germain-MacArthur's evidence includes undisputed English translations by a certified translator of these messages, which I accept are accurate translations.

ISSUES

12. The issues in this dispute are:
 - a. Did Mr. Leonard breach the parties' agreement? If so, what are Ms. Germain-MacArthur's damages?
 - b. Did the parties have a binding settlement agreement about the security deposit?

EVIDENCE AND ANALYSIS

13. In a civil claim such as this, Ms. Germain-MacArthur, as the applicant, must prove her claims on a balance of probabilities. This means more likely than not. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.

14. In July 2023, Mr. Leonard was renting an apartment from a third party. Ms. Germain-Macarthur agreed to rent a room in the house from Mr. Leonard.
15. Mr. Leonard advertised the room for \$1,350 per month. Ms. Germain-Macarthur did not view the apartment in person but the parties discussed the rental arrangement in a video call when Mr. Leonard gave Ms. Germain-Macarthur a “virtual tour” of the apartment. In July 29 What’s App messages, the parties agreed that Ms. Germain-Macarthur would pay a \$1,350 security deposit and \$1,089 rent for the month of August. The tenancy would start on August 6 though Ms. Germain-Macarthur would not be in town until August 24.
16. Ms. Germain-Macarthur says that the following occurred in her first few days of living in the apartment. She discovered water stains on the dining room ceiling and her bedroom ceiling. In her bedroom, she found a mouse dropping, a mouse trap and black mold on the wall under a window where paint was missing. A piece of the ceiling fell onto her bed. In the morning, she woke up with a sore throat.
17. Ms. Germain-Macarthur left the apartment on August 27. She returned to retrieve her belongings on September 1, 2023.

Breach of Contract

18. Ms. Germain-Macarthur says that Mr. Leonard told her during the virtual tour that there was no mold or water damage in the apartment, and she rented the room on that basis. Ms. Germain-Macarthur says Mr. Leonard breached the parties’ agreement because the room had water damage, mold and showed signs of mouse infestation. She asks for the return of the \$1,089 she paid in rent and the \$1,350 damage deposit.
19. Mr. Leonard denies that there was any mold in the apartment or that Ms. Germain-Macarthur asked him about mold before moving in. I find there is no evidence that Mr. Leonard made a promise about the presence of mold or that Ms. Germain-Macarthur rented the room based on that promise. I understand Ms. Germain-

Macarthur says Mr. Leonard made this promise during the virtual tour. However, there is no mention of mold or water damage in the parties' messages following their virtual discussion. Without more, I am not able to conclude that Mr. Leonard made an explicit promise about mold.

20. However, in certain circumstances, contractual terms may be implied. Implied terms are terms that the parties did not expressly consider, discuss, or write down. Previous CRT decisions have found an implied term of roommate agreements is cleanliness.² While CRT decisions are not binding on me, I find there was an implied term that Mr. Leonard would provide Ms. Germain-Macarthur with a clean room. I turn now to consider whether Mr. Leonard breached this term.
21. A material breach is a breach so substantial that it makes continuing with the contract impossible or almost impossible. Here, Ms. Germain-Macarthur argues that Mr. Leonard materially breached the roommate agreement by not providing clean and safe housing conditions. For the following reasons, I find that Ms. Germain-Macarthur established a breach of the parties' contract.
22. Ms. Germain-Macarthur's photos show a dark substance on the wall and a hand holding a white substance that matches a hole in the ceiling finish. Ms. Germain-Macarthur says this is a piece of the ceiling while Mr. Leonard says it is only paint and a cosmetic issue. Ms. Germain-Macarthur also provided photos of a mouse dropping and a mouse trap.
23. Ms. Germain-Macarthur provides no other evidence that there was mold, such as an expert report. Mr. Leonard provided a report from a contractor stating that an inspection revealed no traces of mold. However, as this report is dated October 2024, which is over a year after Ms. Germain-Macarthur occupied the room, I find it is no help in determining the presence of mold at that time. While the evidence on whether mold was present in the room is inconclusive, I find the black substance on the wall and the piece of the ceiling indicates there may have been a mold or moisture problem.

24. According to Ms. Germain-MacArthur, the parties discussed the ceiling damage in person on August 25. This is reflected in the parties' August 27 What's App messages where Ms. Germain-MacArthur said, "considering what we've said about the water damage in the house." Ms. Germain-MacArthur says she asked for a mold test and suggested contacting the landlord, but Mr. Leonard refused. I note that Ms. Germain-MacArthur does not say that she raised the mouse infestation issue with Mr. Leonard but given my finding below, nothing turns on this.
25. Mr. Leonard does not deny that the parties' discussion occurred as Ms. Germain-MacArthur says so I find that it did. I find Mr. Leonard breached the parties' agreement because he took no steps to address Ms. Germain-MacArthur's concerns about mold and ongoing water damage.
26. So, Ms. Germain-MacArthur is entitled to return of rent for the remaining days in the month after she raised her concerns with Mr. Leonard. As the parties' rent agreement was \$1,089 for 26 days, Ms. Germain-MacArthur is entitled to the return of rent at \$41.88 per day from August 26 to August 31. This equals \$251.28.
27. As I explain below, I find that Ms. Germain-MacArthur is not entitled to the security deposit because the parties had a binding settlement agreement.

Alleged Settlement Agreement

28. Mr. Leonard says that the parties agreed that Ms. Germain-MacArthur would have her security deposit returned only if Mr. Leonard found someone else to rent the room for the month of September.
29. For a binding settlement agreement to exist, there must be an offer and acceptance of that offer, without qualification. The agreement does not have to be signed, or even written, to be enforceable. Whether the parties had a consensus, or a "meeting of the minds," on the contract's essential terms is determined from the perspective of an objective reasonable bystander and not the parties' subjective intentions.³

30. I find that is the case here. The parties' What's App messages on August 27 show the parties' settlement agreement. Mr. Leonard told Ms. Germain-MacArthur that "I'll post an ad and depending on when I find someone, I'll give you the equivalent of your deposit. If I don't find someone before the end of September, I'll have to keep it unfortunately." Ms. Germain-MacArthur replied that "yes, that's what we agreed, so I understand!" So, I find Ms. Germain-MacArthur agreed that Mr. Leonard would keep the deposit if he did not find another roommate for September. As it is undisputed that Mr. Leonard did not find a new roommate, Mr. Leonard was entitled to keep the security deposit under the parties' settlement agreement.

INTEREST, FEES, AND EXPENSES

31. The *Court Order Interest Act* applies to the CRT. Ms. Germain-MacArthur is entitled to pre-judgment interest on the \$251.30 calculated from August 25, 2023, which is the date Mr. Leonard breached the parties' agreement, to the date of this decision. This equals \$19.37.

32. 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. As Ms. Germain-MacArthur was partly successful, I find she is entitled to reimbursement of half her paid CRT fees, which is \$62.50. I find Ms. Germain-MacArthur is entitled to the full \$157.50 in dispute-related expenses for translating the parties' communications as these translations were helpful in adjudicating this dispute.

ORDERS

33. Within 30 days of the date of this decision, I order Mr. Leonard to pay Ms. Germain-MacArthur a total of \$490.67, broken down as follows:

- a. \$251.30 as a refund of pro-rated rent,

- b. \$19.37 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$220, for \$62.50 in CRT fees and \$157.50 for dispute-related expenses.

34. Ms. Germain-MacArthur is entitled to post-judgment interest, as applicable.

35. 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.

Maria Montgomery, Tribunal Member

¹ 2023 BCCA 100.

² *Berlin v. Diaz*, 2020 BCCRT 847.

³ *Salminen v. Garvie*, 2011 BCSC 339, at paragraphs 24 to 27.