



Civil Resolution Tribunal

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Civil Resolution Tribunal

Indexed as: *Lin v. Osemene*, 2025 BCCRT 1120

B E T W E E N :

KUAN-RONG LIN

APPLICANT

A N D :

EBUBE OSEMENE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Jeffrey Drozdiak

INTRODUCTION

1. The applicant, Kuan-Rong Lin, and the respondent, Ebube Osemene, are former roommates. Mr. Lin says Mr. Osemene smoked in the apartment and fried his food at high heat with cooking oils. Mr. Lin argues the smoke and particulate matter damaged his health. He claims a total of \$600 for these alleged issues. Mr. Lin also alleges Mr. Osemene's bad behaviour forced him to move out. He claims a total of

\$4,400 for moving costs, damaged property, emotional distress, and other health issues.

2. Mr. Osemene denies acting badly. He says this happened a long time ago and Mr. Lin chose to move out of the apartment. Mr. Osemene argues Mr. Lin is not entitled to financial compensation for any of the alleged issues.
3. The 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 section 118 of the *Civil Resolution Tribunal Act* (CRTA). CRTA section 2 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
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. The parties call into question the credibility, or truthfulness, of the other's evidence. Under the circumstances, I find that I am properly able to assess and weigh the evidence and submissions before me without an oral hearing. In *Downing v. Strata Plan VR2356*, 2023 BCCA 100, the court recognized that oral hearings are not always needed where credibility is in issue. Neither party requested an oral hearing. So, bearing in mind the CRT's mandate for proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
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.

PRELIMINARY ISSUES

Residential Tenancy Jurisdiction

8. In general, the CRT 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 an agreement between roommates, which is the case here. So, I find that this dispute falls within the CRT's small claims jurisdiction over debt and damages, as set out in CRTA section 118.

Defamation and Invasion of Privacy

9. In submissions, Mr. Osemene objects to a video that Mr. Lin took where Mr. Osemene can be seen without a shirt. Mr. Osemene asserts Mr. Lin has shared his nudity with the public. He argues this evidence is defamatory and an invasion of his privacy. I note that the CRT's Access to Information and Privacy Policies say the public only has limited access to records or information in CRT disputes. This access includes pleadings and decisions, but not evidence provided in a dispute. This means Mr. Lin has not shared Mr. Osemene's alleged nudity with the public.
10. In any event, CRTA section 119 says the CRT does not have jurisdiction to consider defamation claims. So, I have not made any findings about whether the video defames Mr. Osemene's character. For the alleged invasion of privacy, the court in *Ari v. Insurance Corporation of British Columbia*, 2015 BCCA 468 wrote at paragraph 9 that there is currently no common law breach of privacy tort (legal wrong) in British Columbia. I acknowledge that the *Privacy Act* makes it a tort, actionable without proof of damage, to invade another person's privacy. However, *Privacy Act* section 4 says such a claim must be determined by the BC Supreme Court. So, to the extent Mr. Osemene claims a breach of the *Privacy Act*, I refuse to resolve that claim because it is beyond the CRT's jurisdiction.
11. Finally, the CRT has jurisdiction under the *Intimate Images Protection Act* to consider damages and protection orders for the distribution of nude or nearly nude

images. However, Mr. Osemene did not bring a counterclaim in this dispute, so I make no findings about whether Mr. Lin distributed the alleged intimate images without Mr. Osemene's consent.

Evidentiary Issue

12. I was initially unable to open one piece of Mr. Lin's evidence. At my request, CRT staff invited Mr. Lin to resubmit this evidence, which he did. Mr. Osemene did not say whether he was able to open Mr. Lin's original evidence. So, Mr. Osemene was invited to comment on the re-uploaded evidence but did not do so. I find that no prejudice results from allowing the re-uploaded evidence. So, I considered this evidence in my decision below.

Late Evidence

13. Mr. Lin provided evidence after the CRT's deadline. The evidence appears to be in reply to Mr. Osemene's submissions. Since Mr. Osemene had the opportunity to comment on the late evidence, I find there is no prejudice in admitting it. Given the CRT's mandate that includes providing flexible and informal dispute resolution services, I have admitted the late evidence and considered it in making this decision.

Limitation Act

14. CRTA section 13 says the *Limitation Act* applies to the CRT. This act says a party cannot start a claim more than two years after discovering it. The parties' tenancy ran from January 1 to December 15, 2022, and Mr. Lin started this dispute on April 29, 2024. This means any claims Mr. Lin discovered between January 1 and April 28, 2022, would be out of time under the *Limitation Act*.
15. Although not explicitly raised by either party, I considered asking the parties for submissions about whether some of Mr. Lin's claims were out of time under the *Limitation Act*. However, given my conclusions below on the merits of Mr. Lin's claims, I find it unnecessary to address whether these claims have expired.

16. I note that Mr. Lin was successful in proving a loss for a damaged cooking pot and frying pan. However, I find Mr. Lin's pictures show this occurred between October and December 2022. This means Mr. Lin brought a claim for these particular damages within two years, and the *Limitation Act* does not prevent me from considering it.

ISSUE

17. The issue in this dispute is whether Mr. Lin is entitled to any damages for Mr. Osemene's alleged actions during the tenancy, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

18. In a civil proceeding like this one, Mr. Lin, as the applicant, must prove his claims on a balance of probabilities (meaning "more likely than not"). 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.

The Tenancy

19. On December 5, 2021, Mr. Lin posted an advertisement online looking for a roommate. In the posting, Mr. Lin referred to a two-bedroom apartment and noted a roommate's share of the monthly rent would be \$850 plus utilities. Mr. Lin wrote that he would pay the remaining \$900 to get the bigger room.
20. On December 14, 2021, Mr. Osemene responded to the posting. In reply, Mr. Lin confirmed that he was still waiting to find out whether he got the apartment. Mr. Lin noted that he would be living in the apartment with his son and needed the bigger room.
21. On December 19, 2021, the parties signed a residential tenancy agreement with the landlord. The parties agreed to pay a total of \$1,750 per month for rent, and the rental term would begin on January 1, 2022. Mr. Lin's son was not listed as a minor

occupant in the tenancy agreement and that space was left blank. However, it is undisputed that Mr. Lin's son lived in the apartment during the tenancy.

22. Throughout the tenancy, the evidence shows that the parties disagreed about various things. On November 14, 2022, Mr. Lin emailed the landlord saying that he would be moving out of the apartment after December 15. After Mr. Lin and his son moved out, Mr. Osemene remained in the apartment.

Is Mr. Lin Entitled to Damages for Mr. Osemene's Alleged Actions?

23. Mr. Lin alleges Mr. Osemene acted badly during the tenancy. In general, these allegations include smoking cannabis on the balcony, cooking at high heat with oils, watching television after quiet hours, inviting people over, not cleaning the apartment, damaging cookware, and other issues.
24. For these actions, Mr. Lin claims a total of \$5,000 in compensation, including \$300 for alleged health damage from Mr. Osemene's smoking, \$300 for alleged health damage from Mr. Osemene's cooking, and \$4,400 for expenses arising from moving out and replacing damaged property. In submissions, Mr. Lin increases this amount to \$9,694. I note that a party can make submissions on damages greater than the CRT's \$5,000 small claims limit, but I am only able to award a maximum of \$5,000.
25. Mr. Lin does not say what legal basis entitles him to compensation. I considered whether Mr. Lin's complaints, if proven, could be a nuisance. The tort of nuisance is the substantial (non-trivial) and unreasonable interference with the use and enjoyment of property. See *Antrim Truck Centre Ltd. v. Ontario (Transportation)*, 2013 SCC 13, at paragraph 19.
26. However, in *Stevens v. Esak*, 2025 BCSC 331 at paragraph 383, the court found that nuisance is only intended to protect the interests of a property owner from actions that are external to the property and its ownership. Problems occurring on the property itself, which is the case here, are not included. So, I find Mr. Lin cannot rely on the tort of nuisance. Notably, the court in *Stevens* did not address whether it

could be an implied term in an agreement that each party does not commit a nuisance.

27. Implied terms are contractual terms that the parties did not expressly consider, discuss, or write down. The court (and the CRT) will only imply a term if it is necessary to give business efficacy to the contract. An implied term must be something that both parties would have considered obvious when they entered the contract. See *Zeitler v. Zeitler (Estate)*, 2010 BCCA 216 at paragraphs 25 to 32.
28. Past CRT decisions have implied terms to a roommate agreement, including treating each other respectfully, ensuring quiet enjoyment of the rental unit, and maintaining reasonable levels of cleanliness, noise, and access to the shared facilities. See for example *Koehler v. Higginbottom*, 2025 BCCRT 996, *Soler v. Ajith*, 2025 BCCRT 827, and *Berlin v. Diaz*, 2020 BCCRT 847. In general, I find these implied terms are consistent with an overall implied term that roommates will not be a nuisance to one another.
29. Here, I find both parties would have considered it obvious in their communal living arrangement that neither party would be a nuisance. So, I find it was an implied term of their roommate agreement. The test for nuisance depends on several factors, including the action's nature, severity, duration, frequency, location, and utility. Overall, the interference must be intolerable to an ordinary person. See *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64 at paragraph 77.
30. With this framework in mind, I now turn to Mr. Lin's complaints.

Smoking and Cooking Fumes

31. Mr. Lin says when he moved in, Mr. Osemene said he smoked cannabis in the bathroom with his friends. When Mr. Lin asked him to stop, he says Mr. Osemene began smoking cannabis on the balcony. On March 6, 2022, Mr. Lin emailed the landlord, complaining about Mr. Osemene smoking on the balcony. After that, Mr. Lin alleges Mr. Osemene smoked cannabis in his room, which Mr. Osemene denies.

32. Mr. Lin provided a video that I infer shows Mr. Lin measuring the air quality underneath Mr. Osemene's closed door. Mr. Lin says the video was taken on April 29, 2022. The next day, Mr. Lin sent a follow-up email to the landlord about Mr. Osemene smoking in the apartment. After that, Mr. Lin says Mr. Osemene stopped smoking in the apartment.
33. Based on Mr. Lin's evidence, I find he has not proven that Mr. Osemene substantially interfered with the use and enjoyment of the apartment. It is undisputed that Mr. Osemene went outside to smoke after Mr. Lin asked him not to smoke in the apartment. Mr. Lin also only gave two examples where Mr. Osemene smoked inside the apartment. Given this, I find the nature, severity, duration, and frequency of Mr. Osemene's smoking did not give rise to a nuisance.
34. I note that the parties' tenancy agreement said that tenants were not allowed to smoke in the apartment. However, even if I accept Mr. Osemene did so, I find Mr. Lin has not proven he suffered any damages arising from this breach. Mr. Lin provided various articles about the dangers of secondhand smoke. However, he has not provided sufficient medical evidence linking Mr. Osemene's actions to an alleged health issue.
35. Mr. Lin's only medical evidence is a December 31, 2024 document entitled "Certificate of Diagnosis". The certificate says Mr. Lin was diagnosed with stress, anxiety, globus pharyngeus, and chronic pharyngitis. It says this was "due to environmental interference of noise and bothering from other people".
36. I place no weight on this medical certificate for two reasons. First, the certificate is partially translated into English. So, it is unclear who wrote this certificate and what their qualifications were. Second, the author does not explain how they reached their diagnosis. The certificate only lists Mr. Lin's self-reported symptoms and vaguely refers to the cause of these symptoms. It does not say the diagnosed health issues were caused by smoke.

37. Mr. Lin says Mr. Osemene also prepared his meals by frying and deep-frying food at high heat using cooking oils. He argues that the stove's exhaust fan was not designed for these activities, and he is concerned about how these fumes affected his health. He also says that his clothes sometimes smelled like cooking fumes.
38. Mr. Lin provided his calculations on how big he says the stove's exhaust fan should have been for adequate air flow. I find these calculations are opinion evidence and subject matter outside ordinary knowledge. So, I find Mr. Lin needed to provide expert opinion evidence to support his argument. See *Laidar Holdings Ltd. v. Lindt & Sprungli (Canada) Inc.*, 2015 BCSC 845 at paragraph 22. CRT rule 8.3(7) says a party generally cannot act as their own expert. So, I place no weight on Mr. Lin's calculations.
39. Mr. Lin says he also bought a device that measures particulate matter in the air. He says he installed the device in the kitchen. In evidence, Mr. Lin provided various air quality readings between August 26 and December 12. Some readings are over the entire day, while others focus on a specific hour. I find these readings generally show that particulate matter increased when Mr. Lin says Mr. Osemene was cooking. The levels later returned to low levels. Notably, Mr. Lin did not provide air quality readings from when he was cooking.
40. Mr. Lin says he and his son often went to the bedroom when Mr. Osemene was cooking. So, I find Mr. Lin likely was not continuously exposed to the air quality readings in evidence. Mr. Lin did not provide air quality readings from his bedroom while Mr. Osemene was cooking. So, I am unable to determine from the evidence before me what air quality levels Mr. Lin was actually exposed to.
41. I also find Mr. Lin has not proven that Mr. Osemene's cooking rose to the level of a substantial and unreasonable interference with the use and enjoyment of the apartment. Cooking is an everyday activity and an essential utility. Mr. Lin did not provide any persuasive evidence that Mr. Osemene's cooking methods were different to how an ordinary person would cook. So, I find Mr. Lin has not proven Mr. Osemene's cooking methods were a nuisance. For the same reasons as above, I

also find Mr. Lin has not proven that he suffered any health damage from the increased particulate matter in the apartment.

42. Overall, I find Mr. Lin has not proven he is entitled to compensation for Mr. Osemene's smoking and cooking methods. So, I dismiss Mr. Lin's claim for \$600.

Watching Television After Quiet Hours

43. Mr. Lin says Mr. Osemene would often watch television at a loud volume after generally accepted quiet hours. He says he needed to buy earplugs to reduce the noise. The parties' tenancy agreement said a tenant was not allowed loud conversations or noise between the hours of 10:00 p.m. and 9:00 a.m. I infer Mr. Lin relies on this clause to support his claim. However, based on the 11-hour timespan, I find this term applied to noise between rental units, not within them.
44. Mr. Osemene says the fans in the kitchen and the living room were turned on in the evening. So, he says the fans made it "almost impossible" to hear anything from the television at a very low volume. He asserts he still watched television at a low volume to not disturb other tenants in the building.
45. Mr. Lin provided 25 short videos of him filming television noise coming from the living room. He says these videos were taken between October 3 and November 28. Other than one recording, which was taken at 11:43 p.m., the rest of the recordings were taken between 10:00 p.m. and 11:02 p.m. In most of the recordings, Mr. Osemene can be heard watching sports.
46. Overall, based on the videos in evidence, I find Mr. Lin has not proven that the television's noise was unreasonable. I find the time of the day was not unreasonably late, especially considering that Mr. Osemene was watching television in his own apartment. So, I find Mr. Osemene's actions are not a substantial and unreasonable interference that gives rise to a nuisance.

Inviting People Over

47. Mr. Lin says Mr. Osemene had his girlfriend over all the time. Mr. Lin provided a chronology, which he says shows Mr. Osemene's girlfriend was over 30.8% of the time. He also says Mr. Osemene had friends stay over in the living room. Mr. Osemene argues his actions were reasonable, and Mr. Lin's son lived full-time in the apartment. In reply, Mr. Lin argues he let Mr. Osemene know about his son before they moved in.
48. Overall, I find Mr. Osemene's argument more persuasive. Mr. Lin only paid \$50 more in rent. In return, he got a larger bedroom, and his son lived there full-time. I find another full-time occupant would have increased the use of common facilities, such as the bathroom, kitchen, and living room. Under these circumstances, I find it was not an unreasonable interference for Mr. Osemene to have guests visit the apartment from time to time.

Cleanliness

49. Mr. Lin argues Mr. Osemene did not do his chores regularly, left dishes in the sink or drying rack, left food to rot, and did not return items to their proper place. I note the tenancy agreement said the tenants must maintain reasonable health, cleanliness, and sanitary conditions in the apartment.
50. Mr. Lin provided a lot of pictures to support his argument. After reviewing these pictures, I am not satisfied that Mr. Osemene's cleanliness level fell below a reasonable standard and is compensable. Many of Mr. Lin's pictures show minor issues that would not be intolerable to an ordinary person in a communal living space. For example, Mr. Lin provided over 50 pictures showing an unwashed frying pan or pot. Another picture showed a solitary spoon in the sink. In several pictures, a toothpaste container had been left outside its tray or shoes were placed outside the shoe rack. Overall, Mr. Lin did not provide any convincing evidence of unsanitary living conditions.

51. Mr. Osemene admits that he sometimes bought too much food, and two or three times, it ended up rotting. Mr. Lin does not dispute the number of times Mr. Osemene's food rotted, but says he had to clean up the rotten food. One time, he asserts he breathed in mould spores which caused body pain. Without any supporting evidence, I find this bare assertion speculative and unproven. I accept that cleaning up mouldy food is unpleasant. However, considering the frequency and duration of these events, I find it does not rise to the level of a "substantial" interference with the use and enjoyment of the apartment.

Other Issues

52. Mr. Lin raises other issues he had with Mr. Osemene's behaviour. These issues include storing stinky food, throwing recycling in the garbage, burning scented candles, leaving the heat on in winter, occupying the living room most of the time, lying about being easygoing, taking a \$2.49 plastic spray bottle, using more than half the refrigerator space, putting Mr. Lin's stuff on the balcony, and once holding a meeting in the living room that delayed Mr. Lin from cooking dinner. Mr. Lin provided documentary evidence to support these issues.

53. Overall, I find Mr. Lin's complaints are trivial and do not amount to a substantial and unreasonable interference with the use and enjoyment of the apartment. It is clear from Mr. Lin's voluminous evidence that he found Mr. Osemene's behaviour annoying. However, in communal living situations, parties must accept that their roommates may not act in the way they want them to.

54. It is also clear from the evidence before me that both parties found the other's actions unacceptable. For example, Mr. Lin provided a September 25 video where he confronted Mr. Osemene and his girlfriend, while they ate breakfast, about moving his stuff. In the video, Mr. Osemene's girlfriend, looking very uncomfortable, repeatedly asks Mr. Lin to stop filming them. Despite these repeated requests, Mr. Lin awkwardly continues to film them eating breakfast for several more minutes, refusing to stop.

55. As I noted above, when assessing an alleged nuisance, I must consider the location, nature, and utility of the actions. There is no evidence before me that Mr. Osemene intentionally took steps to annoy Mr. Lin. Instead, I find the evidence shows Mr. Osemene lived his life in the custom he was used to. Under the law, I find that unless Mr. Osemene's actions rose to the level of a substantial and unreasonable interference with the use and enjoyment of the apartment, Mr. Lin should not be financially compensated for perceived annoyances.
56. Even accounting for all of Mr. Lin's complaints, I find Mr. Osemene's actions still do not amount to a nuisance that would be intolerable to an ordinary person living with a roommate. So, I find Mr. Osemene did not breach the implied term in the roommate agreement and I dismiss Mr. Lin's claim for damages, with one exception.

Damaged Property

57. Mr. Lin says Mr. Osemene used his frying pan and cooking pot during the tenancy. He says Mr. Osemene damaged these items and he was forced to throw them away. I find this claim is separate from the other claims. For this claim, I find Mr. Lin relies on the tort of conversion. Conversion is when a person wrongfully handles, disposes of, or destroys another person's personal property in a way that is not consistent with the owner's rights. See *Ast v. Mikolas*, 2010 BCSC 127 at paragraph 126.
58. Mr. Lin provided 5 pictures, which he says were taken between October 10 and December 16, 2022. I find the pictures show a frying pan with caked-on grease and a charred pot. From this, I accept that the pan and pot were wrongfully handled and essentially destroyed. Mr. Osemene admits he damaged the pot, and he does specifically deny he damaged the frying pan. So, I find Mr. Osemene committed the tort of conversion by damaging these items.
59. Mr. Lin provided screenshots showing the cost on Amazon for a 15-piece camping cookware set with three pots, a frying pan, spoons, bowls, plates, and utensils. The

price is listed at \$52.99. Since Mr. Osemene only damaged one pot, I find it reasonable from this listing to award Mr. Lin \$20 for this item. For the frying pan, Mr. Lin provided a screenshot for two non-stick frying pans from Costco, which totaled \$99.99. Since Mr. Osemene damaged one frying pan, I find it reasonable to award Mr. Lin \$50 for the damaged frying pan.

60. I note that Mr. Lin alleges Mr. Osemene also stained his cutting board. However, I find the pictures in evidence show relatively minor staining and the cutting board is still usable. Mr. Lin also did not provide any documentary evidence showing the cutting board's value, if he replaced it, or if the stains faded with further washes. For these reasons, I find Mr. Lin is not entitled to damages for the stained cutting board.
61. In total, I order Mr. Osemene to pay Mr. Lin \$70 for the damaged cooking pot and frying pan.

INTEREST AND DISPUTE RELATED EXPENSES

62. The *Court Order Interest Act* applies to the CRT. Mr. Lin did not provide any evidence that he replaced the cooking pot and frying pan. Mr. Lin's evidence only showed the cost to replace them. So, I find Mr. Lin has not proven he is entitled to pre-judgment interest for these items.
63. 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. I find Mr. Lin was unsuccessful in proving most of his claims. So, I dismiss his claim for dispute-related expenses.
64. Mr. Osemene claims an unspecified amount for his time spent dealing with this dispute. CRT rule 9.5(5) says the CRT does not award compensation for time spent on a dispute except in extraordinary circumstances, which I find are not present here. Mr. Osemene also did not provide evidence to quantify the time he spent dealing with this dispute. So, I do not order an amount for lost time.

ORDERS

65. Within 30 days of the date of this decision, I order Mr. Osemene to pay Mr. Lin a total of \$70 in damages.

66. Mr. Lin is entitled to post-judgment interest, as applicable.

67. I dismiss Mr. Lin's remaining claims.

68. 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.

Jeffrey Drozdiak, Tribunal Member