



Civil Resolution Tribunal

Date Issued: August 29, 2024

File: SC-2023-009992

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Mullen v. Coish*, 2024 BCCRT 841

B E T W E E N :

GRAYSON MULLEN

APPLICANT

A N D :

ROBERT COISH

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Deanna Rivers

INTRODUCTION

1. This is a dispute about return of a damage deposit.

2. The applicant, Grayson Mullen, says he rented a room from the respondent, Robert Coish.¹ Mr. Mullen says when he moved out, Robert Coish kept his security deposit. Mr. Mullen initially claimed \$425.54, but in submissions reduced this amount to \$325.54.
3. Robert Coish says Mr. Mullen did not give the required notice, and so he does not have to return the damage deposit.
4. Both parties are self-represented.

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 *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.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, 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. 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.
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.

ISSUES

8. The issue in this dispute are:
 - a. Does the *Residential Tenancy Act* (RTA) apply to this dispute?

- b. Does Mr. Mullen have standing to bring this dispute?
- c. Whether Robert Coish owes Mr. Mullen \$425.54 or some other amount.

EVIDENCE AND ANALYSIS

- 9. In a civil proceeding like this one, the applicant must prove his claim on a balance of probabilities, meaning more likely than not. I have considered all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to explain my decision.
- 10. I find the main background facts are not disputed:
 - a. Mr. Mullen rented a room in Robert Coish's apartment from September 2021.
 - b. Mr. Mullen paid Robert Coish a \$500 USD damage deposit.
 - c. Mr. Mullen entered into two roommate agreements with PC, Robert Coish's family member. The first agreement was from September 2021 to April 2022, and continued by agreement to August 2022. The second agreement was from September 2022 to August 2023.
 - d. On June 19, 2023, Mr. Mullen gave notice he was leaving on July 7, 2023.
 - e. Robert Coish did not return the damage deposit.

Preliminary Matter

- 11. The CRT does not have jurisdiction over residential tenancy disputes, which are within the exclusive jurisdiction of the director of the Residential Tenancy Branch (RTB) under the RTA. RTA section 4(c) says the RTA does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. The parties agree that Mr. Mullen was renting a room in accommodation owned by Robert Coish. However, Robert Coish did not live at the accommodation.

12. So, I find that any dispute concerning tenancy between Mr. Mullen and Robert Coish is within the exclusive jurisdiction of the RTB, and I must refuse to resolve the claim.

Standing

13. “Standing” refers to a person’s legal right to bring a claim. To have standing, a person must have a legally recognized interest in the claims they are making (see *Extra Gift Exchange Inc v. Ernest & Twins Ventures (PP) Ltd.*, 2007 BCSC 426 at paragraph 51).
14. As the RTA does not apply to disputes between roommates, enforcement of the roommate agreements is within the jurisdiction of the CRT. It is undisputed that Mr. Mullen was a roommate of PC. PC is not a party to this dispute.
15. I did consider whether Robert Coish stood as agent for PC. As noted, the roommate agreements are between PC and Mr. Mullen. The agreements list PC as the tenant and Mr. Mullen as the roommate. Robert Coish is not a party to the agreements but is listed as the landlord.
16. The legal doctrine called “privity of contract” says that as a general rule, a contract cannot give rights or impose obligations on any person except the parties to that contract. Neither agreement provides that Robert Coish is an agent for PC. So, I find that Robert Coish has no rights or obligations under the roommate agreements.
17. I find Mr. Mullen has no contractual relationship with Robert Coish. So, I find no basis for Mr. Mullen to claim against Robert Coish for any alleged breach of contract. If there is an implied contract between Robert Coish and Mr. Mullen, I find the RTB would have jurisdiction over any dispute.
18. I dismiss Mr. Mullen’s claims and this dispute.

Fees and Dispute-related Expenses

19. 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. However, Robert Coish did not pay CRT fees.

20. Neither party claimed any dispute-related expenses.

ORDERS

21. I dismiss Mr. Mullen's claim and this dispute.

Deanna Rivers, Tribunal Member

¹ CRT has a policy to use inclusive language that does not make assumptions about a person's gender. As part of that commitment, CRT asks parties to identify their pronouns and titles to ensure that CRT respectfully addresses them throughout the process, including in published decisions. The respondent did not provide their title or pronouns so I will refer to them by their full name and with gender neutral pronouns throughout this decision, intending no disrespect.