



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CO's claims: MNRL, MNDCL, FFL
JB 's claims: MNSDB-DR

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear applications regarding the above-noted tenancy.

CO and JB attended the hearing on August 15, 2024. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

CO applied for (dispute *****415):

- a monetary order for unpaid rent, pursuant to section 26;
- a monetary order for loss under the Act, the regulation or tenancy agreement, pursuant to section 67; and
- an authorization to recover the filing fee for this application, under section 72.

JB applied for an order for the landlord to return the security and pet damage deposits, pursuant to section 38 (dispute *****254).

CO applied for (dispute *****526):

- a monetary order for loss under the Act, the regulation or tenancy agreement, pursuant to section 67; and
- an authorization to recover the filing fee for this application, under section 72.

This decision should be read in accordance with the interim decision dated June 6, 2024 (the interim decision).

The parties confirmed receipt of the evidence documents and submissions ordered in the interim decision. I find the parties served the documents in accordance with the interim decision.

The Parties' submissions

JB affirmed that she started a romantic relationship with CO in 2014 and expected to marry him.

CO stated that he started a romantic relationship with JB in 2014, he lived with her for one year, the relationship ended in 2015 when JB moved from LOW (where CO has lived) to AIM (where JB currently lives). CO testified that it was clear to both parties that their romantic relationship ended and they were just friends after 2015, but their romance restarted in 2020 and then ended again.

JB said that in August 2021 the romantic relationship was reestablished and that she and her two daughters were beneficiaries of CO's final will and life insurance.

CO affirmed that he only considered naming JB and her daughters in his final will and life insurance, but he did not do that.

Both parties agreed that CO emailed JB on March 7, 2022 and wrote: "We may have to think about extra life insurance, if my estate does not continue to pay the mortgage I'd set so my estate did this. At the moment I may have enough insurance to cover both, but I'd have to look at it more carefully, in 1-2 years time frame, the estate would distribute according to my will. [...] As you know, both you and the girls are in my will".

CO purchased a single-family house located in AIM with a few rental units (the rental property) and the completion was on April 19, 2022. CO paid around \$200,000.00 as a down payment and mortgaged the balance of \$750,000.00. CO is the only owner of the property.

JB stated that she had a verbal agreement with CO to purchase the property as a joint-venture considering their romantic relationship. JB testified that she invested \$40,000.00 in renovations for the property, including a new fireplace, pantry and lights.

CO said the renovation items paid for by JB were for changing the kitchen's tap, the tiles around the fireplace and a small cabinet.

JB affirmed that she could not be in the property's title and mortgage because she has a low credit score. JB stated that CO and herself agreed that she would receive 20% of the equity when the property is sold, plus the money that she invested in the renovation.

CO testified that JB would receive between 10 and 20% of the equity, if any, when the property is sold. CO also said that when he purchased the property JB was aware they were only friends

The parties affirmed they signed a residential tenancy agreement in April 2022 for a periodic tenancy starting on April 20, 2022, with monthly rent of \$2,200.00 due on the first day of the month (the April 2022 agreement). The rental unit is a suite on the upper floor of the property (the unit). This agreement indicates the Tenant is required to pay a \$1,100.00 security deposit on April 20, 2022 and a pet deposit in the same amount and on the same date (hereinafter, the deposits).

JB stated that CO received the deposits in cash from her and submitted a receipt with CO's digital signature for the deposits dated April 15, 2022. CO testified this digital signature was forged by JB, as he never signed this receipt and did not receive the deposits.

CO said the April 2022 agreement indicates the amount of \$2,200.00 because JB asked for a document with this amount in order to receive a social benefit, but the agreed rent is \$2,850.00.

CO submitted into evidence the agreement dated May 2022 for a periodic tenancy in the same unit starting on May 1, 2022, with monthly rent of \$2,850.00 due on the first day of the month (the May 2022 agreement). This agreement indicates the Tenant is required to pay the deposits in the total amount of \$2,850.00 on May 1, 2022.

JB affirmed that she did not sign the May 2022 agreement and that her signature was forged by CO. JB stated the agreed rent was \$2,200.00.

CO and JB testified they verbally agreed in May 2022 that monthly rent was reduced to \$1,900.00 because JB was conducting renovation work on the property.

Both parties agreed that JB occupied the unit until January 31, 2024 and paid \$1,900.00 per month to CO from May 2022 to January 2024.

CO said that JB did some renovation work on the property from May to August 2023.

JB affirmed that her renovation work improved the property and that she signed the April 2022 agreement to receive a social benefit.

Jurisdiction

In the three-joined applications CO is seeking to obtain the balance of unpaid rent, considering the alleged correct rent amount is \$2,850.00 and that JB only paid him \$1,900.00, plus damages to the property. JB is seeking the return of double the deposits, plus “the ability to take CO to court for compensation for the renovations and improvements made to the property. Which is, my 20% share of the profits from the sale of the property, as initially promised, plus the costs and labor I invested.”

Section 2(1) of the Act states the Act applies to tenancy agreements.

The Act defines tenancy agreement as “an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit”.

In this matter, it is undisputed that JB signed the April 2022 agreement, JB occupied the unit and paid \$1,900.00 per month to CO from May 2022 to January 2024.

I accept the undisputed testimony the parties had a romantic relationship since 2014 with some interruptions, CO purchased the property in April 2022, the testimony about the email dated March 7, 2022, JB did some renovation work benefiting the property and that the parties agreed that JB is entitled to at least 10% of the property's equity when the property is sold.

Based on the above-mentioned undisputed evidence, I find the parties had a joint-venture regarding purchasing the property heavily influenced by their romantic relationship, as JB paid for some renovation on the property, she has an agreement to receive part of the eventual property's equity and the parties have had a romantic relationship for several years.

In the March 12, 2014 decision from the British Columbia Court of Appeal, *Rhebergen v. Creston Veterinary Clinic Ltd.*, 2014 BCCA 97, Justice Lowry writes:

[54] Generally a court must endeavour to resolve ambiguity in order to determine the mutual intention of the parties to a contract by interpreting the wording of any given

clause in the context of the whole of the agreement as well as the factual matrix that gave rise to the agreement and against which it is intended to operate: *Jacobsen v. Bergman*, 2002 BCCA 102, paras. 3-6.

In light of the above remarks, I find that it is not possible to analyze only the April and May 2022 agreements, as they must be interpreted considering the context of the agreement for purchasing the property and the romantic relationship between the parties. I do not have jurisdiction to analyze the legal aspects of the joint-venture and the romantic relationship between the parties.

Thus, I find the Act does not apply and I do not have jurisdiction to hear these claims.

I note that RTB decisions are binding only in the applications where they were issued, per sections 64(2) and 77(3) of the Act. I rendered this decision based on the facts presented in the hearing and I am not bound by prior RTB decisions between the parties.

Conclusion

I declined to proceed due to a lack of jurisdiction.

The parties are at liberty to seek legal remedy in the appropriate venue.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: September 10, 2024

Residential Tenancy Branch