



I HAVE TO RESILIAE MY LEASE DUE TO MY LOSS OF AUTONOMY

I have lost my autonomy and I have a medical document confirming that I have to move into premises adapted to my needs. What should I do? Should I notify my lessor? Do I have to pay three months of rent?

THE FACTS

The parties were bound by a lease for the period from July 1, 2003 to June 30, 2004 at a monthly rent of \$419.

The lessee left the dwelling on November 3, 2003 in order to go live in a seniors' residence, but she did not send the notice of termination to the lessors, as provided for in article 1974 of the *Civil Code of Québec*.

However, on or about October 17, 2003, the parties had signed an agreement providing for the resiliation of the lease as of November 1, 2003. The lessee was to vacate the dwelling as of November 1, 2003. The lessee was to pay the lessors an amount of \$419 on the day of the move as an indemnity for re-leasing the dwelling, without any recourse for claims against the lessors for the month of November, and she was to provide a cheque in the amount of \$838 dated December 1 covering the months of December and January 2004.

The lessee paid for the month of November 2003, but payment on the cheque for \$838 was stopped.

THE ISSUE

The lessors claimed the amount of \$848 further to the lease resiliation agreement.

THE DECISION

The Régie du logement found the transaction to be valid and it ordered the lessee to pay the lessors the amount of \$848, plus

interest at the legal rate and the additional indemnity provided for in article 1619 of the *Civil Code of Québec* as of January 5, 2004, together with the judicial costs in the amount of \$65.

THE GROUNDS

The lessee claimed that she did not owe anything to the lessors, because the dwelling had been leased very quickly after her departure.

The lessors stated that they had collected rent only as of January 1, 2004.

The Régie du logement determined that the agreement entered into on October 17, 2003 constituted a transaction that could be annulled only for the reasons provided for by law.

Article 1974 of the *Civil Code of Québec* provides as follows:

“A lessee may resiliate the current lease if he is allocated a dwelling in low-rental housing or if, by reason of a decision of the court, he is relocated in an equivalent dwelling corresponding to his needs; he may also resiliate the current lease if he can no longer occupy his dwelling because of a handicap or, in the case of an elderly person, if he is admitted permanently to a residential and long-term care centre or to a foster home, whether or not he resides in such a place at the time of his admission.

Unless otherwise agreed by the parties, re-

The judgement discussed in this article was rendered based on the evidence submitted to the court.

Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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siliation takes effect three months after the sending of a notice to the lessor, with an attestation from the authority concerned, or one month after the notice if the lease is for an indeterminate term or a term of less than twelve months.”

The lessee could have sent the notice, but she did not. Consequently, the transaction had to be interpreted outside the framework of this article.

The Régie du logement referred to the fact that when a lessee wishes to terminate his lease during the term of the lease, he has several options, including that of negotiating with the lessor.

The evidence did not show that the lessee, despite her age, had been misled, intimidated or otherwise forced to sign the agreement in question. The lessee had had the possibility of finding out about her rights but, for personal reasons, had not availed herself of that right. Given that the agreement provided that the lessee was to vacate the dwelling on November 1, 2003, nothing prevented the lessors from re-leasing the dwelling thereafter.

The Régie du logement stated that if the lessee had wanted to benefit from the protection under article 1974 of the *Civil Code of Québec* she should have sent the statutory notice, but she had not done so.

The evidence did not show that the lessee, despite her age, had been misled, intimidated or otherwise forced to sign the agreement in question.

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References

Vadnais et Savignac v. Paradis, RL05026, 29 040105 005 G,
February 11, 2005, Commissioner: M^e Pierre Thérien

*The information set out in this document is not a legal interpretation.