

**COURT OF QUÉBEC**  
«Small Claims Division»

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF BEDFORD  
TOWN OF GRANBY  
«Civil Division»

No: 460-32-006900-137

DATE: March 7, 2014

---

**BY THE HONOURABLE PIERRE BACHAND, J.C.Q.**

---

**JENNIFER BRETT**  
Plaintiff

v.

**GERARD JANSSEN**  
Defendant

---

**JUDGMENT**

---

[1] Plaintiff is claiming an amount of 500,00\$ following an illegal entrance in her apartment. Defendant has filed a cross-demand to claim 3 500,00\$ for the trouble caused by his defence, slander and defamation.

[2] On the 15<sup>th</sup> of March 2013, the plaintiff's landlord, Filippo Preteroti, showed up at her door. He asked to go check her bathroom where repairs had been performed one month earlier.

[3] She let him in but saw that the defendant, another tenant in her building was also coming in. She had had differences with him and did not want to see him there.

[4] She immediately said: "I don't want him here." Mr. Preteroti said that he was coming to help him. And the defendant enters although the plaintiff was repeating her disagreement. Plaintiff says that he ignored her. The two men go to the bathroom.

[5] She calls her boyfriend. The landlord runs to the smaller bedroom and opens the door. The defendant is then standing near the master bedroom.

[6] She is suffering an anxiety attack and tells him to leave three times. Her boyfriend arrives and the two men leave. Every night, she has problems sleeping.

[7] The defendant's testimony has been reticent on some aspects and the Court therefore draws an adverse inference as to its truthfulness. Besides, he has come up with a story which differs on some aspects from that of Mr. Preteroti.

[8] He said that he was going there as a friend but that he knows a lot about plumbing. When he came in, the plaintiff screamed "No, no, not him!" He was hesitant.

[9] He was on his way out when Mr. Preteroti said "No, you're here to help me!" He was confused. He stayed there merely for two or three minutes. He also said three or four minutes. He does not think that Mr. Preteroti went to the bedroom and does not know if he opened its door.

[10] His cross-demand was filed mainly because he has to defend himself and because there was an incident in the parking where plaintiff said "He's the guy who broke into my place."

[11] Mr. Preteroti said that when he decided to go to the Plaintiff's place on March 15, 2013, he thought he needed a witness. That is what he asked from the defendant, saying that he was going to repair the toilet. He did not need him to do it.

[12] He goes to the bathroom after entering and hears miaowing. He then opens the bedroom door to check. He returns to the kitchen where plaintiff starts to scream that he was not allowed to look there.

[13] The defendant has remained in the kitchen and the hallway. Plaintiff had said nothing so far about the defendant having to leave, says Mr. Preteroti, contrary to what both parties had said.

[14] Diane Deslauriers is the defendant's ex common law wife. She is also a tenant in the same building. The defendant was at her apartment when Mr. Preteroti asked him to come with him to advise him and as a witness.

[15] It is clear from the evidence that the plaintiff immediately objected to the defendant's presence in her apartment. He however remained there for a few minutes, without any appearance of right to do so. This was a transgression of the plaintiff's rights albeit a minor one.

[16] This fault has caused minor damages. The court can hardly take into account an overreaction. The situation did not warrant sleepless nights. There was no aggressiveness, misbehaviour but the trespassing.

[17] But the defendant infringed a fundamental right of the plaintiff. Québec Charter of human rights and freedoms provide this at sections 7, 8 and 49:

**"7. A person home is inviolable.**

**8. No one may enter upon the property of another or take anything therefrom without his express or implied consent.**

**49. Any unlawful interference with any right or freedom recognized by this Charter entitles the victim to obtain the cessation of such interference and compensation for the moral or material prejudice resulting therefrom.**

**In case of unlawful and intentional interference, the tribunal may, in addition, condemn the person guilty of it to punitive damages."**

For all the damages, the Court awards 200,00\$.

[18] The cross-demand is ill funded in fact and in law and must be dismissed. First, plaintiff's demand was well funded and it was but normal for the defendant to defend his position without compensation. Second, there was no defamation by the plaintiff.

**WHEREFORE, FOR THE FOREGOING REASONS THE COURT:**

[19] **CONDEMNS** defendant to pay to plaintiff the sum of 200,00\$ with the interests at the legal rate plus the additional indemnity provided for by article 1619 C.c.Q. as of April 10, 2013, without costs.

[20] **DISMISSES** defendant's cross-demand, without costs.

---

Pierre Bachand, J.C.Q.

Date of hearing: February 19, 2014