



# Civil Resolution Tribunal

Date Issued: April 5, 2018

File: SC-2017-004219

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Bradshaw v. Benvie*, 2018 BCCRT 115

**B E T W E E N :**

Jhana Maya Bradshaw

**APPLICANT**

**A N D :**

Hannah Benvie

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Shelley Lopez, Vice Chair

### **INTRODUCTION**

1. This dispute is about the failure of the respondent Hannah Benvie to pay insurance as agreed for a car that was in the applicant's name. The applicant, Jhana Maya Bradshaw, seeks \$780, the outstanding insurance balance owing to the Insurance

Corporation of BC (ICBC), plus \$500 for her time and aggravation. The parties are self-represented.

## **JURISDICTION AND PROCEDURE**

2. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
3. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing. An oral hearing was not requested.
4. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
5. Under tribunal rule 126, in resolving this dispute the tribunal may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

## **ISSUES**

6. The issue in this dispute is to whether and how the respondent must reimburse the applicant for insurance the applicant paid for the respondent's car.

## EVIDENCE AND ANALYSIS

7. I have only commented upon the evidence and submissions to the extent necessary to give context to these reasons. In a civil dispute such as this, the applicant bears the burden of proof on a balance of probabilities.
8. The applicant's son was in a relationship with the respondent. Based on the limited evidence before me, it appears the respondent was unable to get insurance and had been driving without it. The parties agree the car was the respondent's, although given the above circumstances at all times relevant to this dispute it was registered in the applicant's name. While the evidence is not entirely clear, it appears the parties agreed that the respondent had agreed to have the monthly insurance payments come out of her bank account but that there were insufficient funds for a number of months. ICBC then looked to the applicant to pay the outstanding balance, which totaled \$780.
9. I accept that the applicant has not been able to insure her own vehicle because of the outstanding \$780 debt to ICBC that she has been unable to pay.
10. At this point, I will deal with the applicant's alternative claim for the return of the car so she can sell it and pay ICBC the \$780. Based on the limited evidence before me, the respondent sold the car with transfer papers allegedly signed by the applicant, and therefore returning the car is no longer an option. In any event, specific performance, an order to return the car, is usually not appropriate when a monetary order should suffice. In these circumstances, I dismiss the applicant's alternative claim for the car's return.
11. In her submissions, the respondent agrees to pay the \$780, either to the applicant directly or to ICBC. I will not order the payment to ICBC, given it is not a party to this dispute.
12. From the parties' perspective, the central issue appears to be the frequency of the respondent's payments and how the money will be paid to the applicant. The respondent says she cannot presently afford any more than \$80 per month

beginning in March 2018. She submits that she has never denied that she owes the applicant the money and has never refused to pay it.

13. In reply, the applicant submits that she agrees to accept monthly payments from the respondent, but “with the current extras” the total is close to \$1,000. The applicant says she only asked that the committed payments be made by direct deposit or monthly transfer because she thought it would be easier for the respondent.
14. I find that it is clear the respondent owes the applicant the \$780, and I so order. The parties have provided submissions for this decision because they were unable to come to an agreement in facilitation. As set out below in my order, I will give the respondent 30 days to pay the applicant \$780. I find pre-judgment interest is not payable on the \$780 as it appears the applicant has yet to pay that debt to ICBC.
15. Based on the passage of time, I find the applicant is entitled to judgment. Enforcement of this decision is a matter for the provincial court, as set out in my orders below. In other words, if the respondent fails to make the full payment as ordered, that is a matter for the applicant to pursue in provincial court, at which time the respondent can raise any relevant arguments about needing time to pay.
16. I turn then to the applicant’s claim for \$500 for her time, aggravation and stress that not having insurance has caused her. As set out in several prior tribunal decisions, which are not binding upon me but which I find persuasive, I find such an order would not be appropriate. While I acknowledge being without insurance was frustrating and inconvenient, the circumstances do not rise to the level where the requested compensation would be reasonable. I dismiss the applicant’s claim for \$500 for time, aggravation, and stress.
17. The applicant was entitled to begin the tribunal proceeding, given the respondent’s failure to pay the \$780 owing for over a year and her failure to respond to the applicant’s efforts to collect the debt. However, the applicant did not pay any

tribunal fees and there were no dispute-related expenses claimed. Therefore, I make no order for reimbursement of tribunal fees or expenses.

## **ORDERS**

18. Within 30 days of the date of this decision, I order the respondent to pay the applicant \$780, to satisfy the respondent's outstanding debt for insurance related to the 1997 Honda Civic at issue. I dismiss the applicant's remaining claims.
19. The applicant is entitled to post-judgment interest on the \$780 award, as applicable.
20. Under section 48 of the Act, the tribunal will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.
21. Under section 58.1 of the Act, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

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Shelley Lopez, Vice Chair