



Civil Resolution Tribunal

Date Issued: May 29, 2018

File: SC-2017-003970

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *David v. Speedy Cash*, 2018 BCCRT 217

B E T W E E N :

Sabrina David

APPLICANT

A N D :

Speedy Cash

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about whether the respondent Speedy Cash must reimburse the applicant Sabrina David \$616.11 that it took from a joint account (Joint Account), as repayment for a payday loan owed by the other Joint Account holder. 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. Neither party requested an oral hearing.
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 the Act and 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 whether the respondent was entitled to withdraw the \$616.11 from the joint account the applicant shared with the party who owed the funds to the respondent.

EVIDENCE AND ANALYSIS

7. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
8. It is undisputed that the applicant shared the Joint Account with Richard Wyse, who is not a party to this dispute. It is also undisputed that Mr. Wyse owed the respondent the \$616.11, and that this sum was not owed by the applicant. The issue before me is whether the respondent was entitled to withdraw the money Mr. Wyse owed from the Joint Account.
9. I acknowledge the applicant's evidence that the money that the respondent took from the Joint Account in payment of Mr. Wyse's loan was in the Joint Account because the applicant received a deposit for a child tax benefit. However, this is not determinative.
10. The evidence is clear that Mr. Wyse authorized Speedy Cash to withdraw loan payments from the Joint Account, given the pre-authorized debit form he signed. Based on the evidence before me, I also accept that when Mr. Wyse defaulted on the loan, under his loan contract the respondent was authorized to debit the Joint Account to recover the balance owing. I find the respondent was entitled to withdraw the \$616.11 from the Joint Account.
11. The nature of a Joint Account is that its balance will fluctuate from time to time. Most importantly, the very nature of the Joint Account is that the funds in it are joint property. In other words, both account holders legally had the ability to access and dispose of the funds in it (see *Bakken Estate v. Bakken*, 2014 BCSC 1540). This means Mr. Wyse was entitled to offer the Joint Account as the source of funds for the respondent to debit the loan payments, which is what he did in his contract with the respondent. In turn, I find the respondent under its contract with Mr. Wyse was entitled to withdraw the loan repayments from the Joint Account, including the \$616.11 claimed by the applicant in this dispute.

12. Nothing in this decision prevents the applicant from pursuing repayment of the \$616.11 from Mr. Wyse.
13. In accordance with the tribunal's rules, as she was unsuccessful in this dispute I find the applicant is not entitled to reimbursement of tribunal fees or dispute-related expenses.

ORDER

14. I order that the applicant's dispute is dismissed.

Shelley Lopez, Vice Chair