



# Civil Resolution Tribunal

Date Issued: June 29, 2018

File: SC-2017-002806

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Breakdown Services, Ltd., a California Corporation v. Lee*,  
2018 BCCRT 294

B E T W E E N :

Breakdown Services, Ltd., a California Corporation

**APPLICANT**

A N D :

Judy Lee

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Karen Mok

## INTRODUCTION

1. The applicant, Breakdown Services, Ltd., a California Corporation, loaned equipment, including two laptop computers, to the respondent, Judy Lee, pursuant to a loan agreement. The applicant says the respondent reported one of the

laptops stolen and damaged the other one. The applicant seeks reimbursement of \$3,200 from the respondent for the two laptops.

2. The respondent says that she is not bound by the loan agreement. She also submits that the second laptop was not damaged when it left her possession.
3. The parties are self-represented.

## **JURISDICTION AND PROCEDURE**

4. 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.
5. 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.
6. 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.
7. Under tribunal rule 126, in resolving this dispute the tribunal may make one or more of the following orders:
  - a. order a party to do or stop doing something;
  - b. order a party to pay money;

- c. order any other terms or conditions the tribunal considers appropriate.

## **ISSUES**

8. The issue in this dispute is whether the respondent is responsible for reimbursing the applicant for the two laptops and if so, in what amount.

## **EVIDENCE AND ANALYSIS**

9. 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.
10. The applicant loans production equipment to casting directors in the film industry. The respondent is a casting director. It is undisputed that the respondent is a sole proprietor doing business as Judy Lee Casting.
11. Pursuant to a loan agreement executed by Ciarra Cook on behalf of Judy Lee Casting, the applicant loaned equipment, including a MacBook Pro laptop computer, to the respondent. It is undisputed that, at some point, the applicant loaned a second laptop of the same make and model to the respondent. The loan agreement, however, did not explicitly refer to this second laptop as it did to the first one.
12. One of the terms of the loan agreement is that the respondent “return the equipment in good working order and with no damage....If any equipment is lost, stolen or damaged, [the respondent] would pay the cost of replacing that item in full”.
13. It is undisputed that the first laptop had been stolen from the respondent and she had reported as much to the applicant.
14. With respect to the second laptop, the respondent says that it was working when the applicant’s employee retrieved it. The applicant says that it was returned in

damaged condition. While it was still functional, it was no longer in a physically suitable condition to be loaned out again. The applicant submitted as evidence photographs of the physical damage to the second laptop and a related email. I find, on a balance of probabilities, that when the respondent returned the second laptop to the applicant, it was physically damaged but in working condition.

15. The respondent argues that she is not bound by the loan agreement. The respondent says that although Ms. Cook was her employee, she did not have authority to bind the respondent to the loan agreement.
16. The applicant says that Ms. Cook presented herself as having the authority to bind the respondent in contract. She was the respondent's employee, identifying herself as her Executive Assistant, and was usually copied on email communications between the two parties.
17. Apparent or ostensible authority arises when a principal's actions lead a reasonable person to assume that the principal's agent is authorized to act on behalf of the principal.
18. I find that the respondent's conduct led the applicant to believe that her agent, Ms. Cook, had authority to execute the loan agreement on her behalf. Ms. Cook communicated with the applicant about the loaned equipment and the respondent accepted and used that equipment. Ms. Cook, therefore, had ostensible authority to enter into the loan agreement on behalf of the respondent.
19. Accordingly, I find that the respondent is bound by the loan agreement. Even if she were not, the law is that a person is liable for wrongfully taking, using or destroying another person's goods in a manner inconsistent with the owner's right of possession. That person is then responsible for paying the owner the value of those goods. In other words, given the respondent's use of the laptops, she is still responsible.
20. Given the above, I find that the respondent is responsible for reimbursing the applicant for the two laptops.

21. The applicant has submitted the receipt for the stolen laptop, amounting to \$1,502.00. I find the cost of replacing both laptops with new ones would be \$3,004.00. Accordingly, I find that the applicant is responsible for reimbursing the applicant \$3,004.00
22. Under section 49 of the Act, and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I find the applicant is entitled to reimbursement of \$175.00 in tribunal fees.

## **ORDERS**

23. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$3,211.58, broken down as follows:
  - a. \$3,004.00 as reimbursement for the two laptops,
  - b. \$32.58 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$175.00 in tribunal fees.
24. The applicant is entitled to post-judgment interest, as applicable.
25. 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.
26. 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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Karen Mok, Tribunal Member