



# Civil Resolution Tribunal

Date Issued: July 4, 2018

AMENDED decision issued: July 10, 2018

File: SC-2017-007350

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Fretz v. Fletcher*, 2018 BCCRT 301

BETWEEN:

Randy Fretz

**APPLICANT**

AND:

Crystal Marie Fletcher

**RESPONDENT**

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## **AMENDED REASONS FOR DECISION**

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Tribunal Member:

Shelley Lopez, Vice Chair

### **INTRODUCTION**

1. This dispute is about an agreement for babysitting services between the applicant Randy Fretz and the respondent Crystal Marie Fletcher. The applicant alleges the

respondent has failed to make full payment, and the respondent says nothing is owing. 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 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.

## **ISSUE**

6. The issue in this dispute is to what extent, if any, the respondent owes the applicant for babysitting services.

## 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. The parties agree:
  - a. In June 2017 they reached an agreement that the applicant would provide childcare services for the respondent's child. It is undisputed the applicant started doing so in July 2017.
  - b. On October 28, 2017, the applicant asked for payment of \$400 per month for providing the babysitting services.
  - c. The parties entered into an agreement for tree removal that took 4 months to complete (July to October, 2017).
  - d. The applicant last provided babysitting on November 10, 2017.
9. The parties' texts indicate they first discussed the matter on June 27, 2017. The applicant also provided receipts for "zero dollars" for July through October 2017, which I find reflects the respondent's tree removal for the applicant in exchange for free babysitting.
10. On August 1, 2017, the respondent texted certain financial concerns to the applicant, noting among other things she had been paying a third party C \$400 per month to babysit her child. In response, the applicant wrote "Don't worry about paying us", "That's why we are free ...", and "And best part is no strings".
11. There is an undated text excerpt in which the respondent wrote the applicant "If I have extra money at the end of the month I can give you some", to which the applicant responded "Not asking for cash". This appears to have been written during the 4-month tree removal period.

12. The applicant submits that the initial agreement was \$100 per month for the babysitting services. Given the above text messages and the receipts referenced above, I do not accept this evidence. I find the applicant had initially provided babysitting for free.
13. However, when the tree removal agreement was made, the applicant says the respondent agreed on October 1, 2017 to a change in payment, given the babysitting hours increased to full-time hours. To the extent the applicant seeks \$400 for the month of October 2017, I find this is inconsistent with the applicant's receipt for the month of October 2017, showing the respondent paid "zero dollars" in exchange for tree removal.
14. However, there is in evidence an excerpt of a text exchange that occurred at some point on or before October 28, 2017, where the applicant wrote that with having the respondent's child full-time, she was "expecting to be paid \$400 a month", to which the respondent texted back "for sure ...". Given the parties' agreement noted above, I find that this text exchanged occurred on October 28, 2017. Given the "zero dollars" receipts that included the month of October 2017, I find the \$400 a month agreement began on November 1, 2017.
15. The applicant submits that the respondent never fired her or told her in writing that her babysitting services were no longer required. This appears to be the basis for her request for payment for the month of December 2017. I find there is no evidence to support the suggestion that a written termination of the parties' agreement was required. As noted above, the parties agree the last day the applicant provided childcare was November 10, 2017, and I find the applicant is not entitled to payment beyond that date.
16. The respondent submits the applicant "did some of the work willingly with my child in your care", but objects to the applicant having using the television as a babysitting tool. Yet, there is no evidence that the parties ever agreed the respondent's child would not watch television while in the applicant's care, nor is there any evidence that the respondent raised a concern about it. The evidence

suggests that at all material times the respondent was happy with and grateful for the applicant's assistance.

17. Given the above evidence, I find the respondent owes the applicant 1/3 of \$400, or \$133.33, to cover the period of November 1 to 10, 2017 when the applicant provided babysitting. I do not accept the applicant held open a spot for the respondent's child for any later period. It is clear from the evidence that the applicant was primarily doing the respondent a favour and she was not in the business of running a daycare. I also decline to order the respondent to provide a written explanation of why the applicant's babysitting services were terminated, as I find that would not be productive.
18. The applicant is entitled to interest on the \$133.33 under the *Court Order Interest Act* (COIA), from November 10, 2017. In accordance with the Act and the tribunal's rules, as the applicant was only partially successful in this dispute I find she is entitled to reimbursement of half her<sup>1</sup> \$125 in tribunal fees: \$67.50.

## **ORDERS**

19. Within 30 days of this decision, I order the respondent to pay the applicant a total of \$201.77, broken down as follows:
  - a. \$133.33 as final payment for babysitting services,
  - b. \$.94 in pre-judgment interest under the COIA, and
  - c. \$67.50 in tribunal fees.
20. The applicant is also entitled to post-judgment interest, as applicable.
21. 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

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<sup>1</sup> Amendments in this amended decision are all corrections to reflect the applicant's female gender, in accordance with section 64 of the Act.

time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.

22. 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