



Civil Resolution Tribunal

Date Issued: July 30, 2018

File: SC-2017-006873

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *KVI Reconnect Ventures Inc. v. Mark*, 2018 BCCRT 390

B E T W E E N :

KVI Reconnect Ventures Inc

APPLICANT

A N D :

Mascotto Mark

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about whether a former employee, the respondent Mascotto Mark, improperly failed to return a company smartphone and case to the applicant, KVI Reconnect Ventures Inc., which cost \$510.78. The applicant also claims \$427.37 for “RBC Rewards Points” redemption on August 8, 2017 for the respondent’s

family member, which was after the applicant's employment had ended on August 4, 2017.

2. The applicant had initially also claimed \$2,198 for the balance of a pre-paid life insurance premium, along with other claims of unauthorized credit card charges, but prior to adjudication abandoned those claims.
3. The respondent remains an owner (shareholder) of the respondent, although he is no longer employed as its President. The respondent disputes the applicant's claims. 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: 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

8. The issues in this dispute are whether the respondent must reimburse the applicant for a) company equipment (smartphone and case), and b) credit card “points”.

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. In October 2012, the respondent revised the applicant’s terms of employment. In particular, the parties agreed that the applicant’s title was President of the respondent along with affiliated companies, including a business name of “Speedy Cash”. The agreement also notes the respondent was a shareholder. The agreement sets out the respondent’s base salary and bonus structure. Among other things not relevant to this dispute, the agreement also states the respondent will be “provided” the following equipment: smartphone, notebook computer, and “corporate expense card”.
11. On August 11, 2017, the applicant asked the respondent to return his laptop, office keys, parking pass, credit card and any other company property. On August 22, 2017, the applicant acknowledged receipt of everything, except for the parking pass, which the respondent advised must have remained in a vehicle that had left for another province. The applicant responded, “OK, thanks”.
12. On September 14, 2017, the applicant asked the respondent to cancel a Bell Mobility cell phone account, and the respondent advised he had forgotten and would take care of it. A September 20, 2017 Bell summary indicates the company name was “Mark Mascotto” rather than the applicant.
13. The applicant claims \$409.99 and \$100.79 for credit charges at Bell Lansdowne for a new phone and new case on April 26, 2017. It has not provided any evidence

in support of those amounts, but the respondent does not dispute them. The basis for this \$510.78 claim is that the respondent did not return his smartphone after he left the applicant's employment.

14. The respondent says the parties' agreement says he would be "provided" the equipment, including the phone, and that it does not say he would have to return them upon termination of his employment. He says that as some items may have contained sensitive information or had no use beyond his employment, he returned some of the items. The respondent notes the parties' emails in August and September 2017 where the applicant did not request the phone's return, and instead the applicant asked the respondent to simply take over the phone contract for services.
15. On balance, I find the applicant has not proved that the parties' executive agreement required the respondent to return the phone upon termination of his employment. I find this conclusion is particularly supported by the fact that the applicant did not ask for the phone back and instead only asked that the respondent cancel the contract. I dismiss the applicant's claims for \$409.99 and \$100.79.
16. The applicant also claims \$427.37 for an "RBC Rewards Points" redemption on August 8, 2017 for the respondent's family member's hotel stay, which the applicant says was after the respondent's employment ended. The respondent does not dispute these facts.
17. The applicant's claim about the RBC Rewards redemption has evolved since the Dispute Notice was issued. The applicant now says that as the respondent was an owner in the company, he was entitled to use the RBC Travel Points towards company-related travel. However, based on the respondent's share in the company, the applicant says the respondent used more of the points than he was entitled to. The applicant says the respondent "should have sought clarity" on his use of the RBC points.

18. The respondent submits there was never any discussion or written documentation about how shareholders were to utilize the points. I agree, and note there is simply no evidence before me to support this claim and I dismiss it.
19. In summary, I have dismissed the applicant's claims that were before me for adjudication. As the applicant was unsuccessful in this dispute, I find it is not entitled to reimbursement of its tribunal fees or dispute-related expenses.

ORDER

20. I order that the applicant's claims, and therefore this dispute, are dismissed.

Shelley Lopez, Vice Chair