



# Civil Resolution Tribunal

Date Issued: September 24, 2018

File: SC-2018-002896

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Delancey v. Sharp*, 2018 BCCRT 550

BETWEEN:

Jean Delancey

**APPLICANT**

AND:

Kelly Sharp

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## INTRODUCTION

1. The applicant, Jean Delancey, says the respondent, Kelly Sharp, breached the parties' contract that provided for the applicant's business use of part of the

respondent's salon. After a month, the respondent told the applicant she wanted to terminate the space-sharing arrangement at the end of the 90-day trial.

2. While the applicant acknowledges the agreement was based on a 90-day trial, she says she expected the arrangement to be long-term and spent money on that basis, and wants an order for \$1,216.81 to reimburse her for those losses. The respondent says that after 29 days she gave the applicant notice that the agreement would end after the 90 days, and therefore denies any liability except for a door chime the applicant bought for the respondent's shop. The parties are self-represented.

## **JURISDICTION AND PROCEDURE**

3. These are the tribunal's formal written reasons. 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.
4. 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 as I find I can fairly resolve the issues based on the documentary evidence before me.
5. 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.

6. 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.

## **ISSUE**

7. The issues in this dispute are whether the respondent breached the parties' contract about space-sharing salon services, and b) if so, what is the appropriate remedy.

## **EVIDENCE AND ANALYSIS**

8. 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.
9. The applicant says the parties' agreement "was to access and alter our agreement at 90 days if the communication was there", and that the applicant "was under the impression" the agreement would be long-term and thus invested in advertising her business at the respondent's location.
10. I do not agree with the applicant. A 90-day trial means that after 90 days, either party has the right to end the agreement. There was nothing inappropriate in the respondent letting the applicant know after 29 days that the agreement would end at the 90 day mark. The applicant does not dispute that the respondent asked her to stay through the 90 days, and submits that she was heartbroken and "chose to vacate immediately". If anything, the respondent acted reasonably giving the applicant as much notice as she did. I do not need to dwell on the respondent's reasons for giving the applicant notice that the agreement would end, other than to say they are valid reasons.

11. Most of the applicant's claimed losses relate to the respondent's alleged breach of the agreement, and I therefore do not need to address those given my conclusion above.
12. The applicant also claims for a few items she said she bought for the respondent's salon business, which total \$179.96: door chime (\$33.98), floor screen (\$99.98), menu holder (\$6), and a curtain rod (\$40). The respondent says she always offered to pay for these items, but the applicant never provided the original receipts. However, the applicant does not dispute that she has retained possession of all these items along with the original receipts, except for the door chime which remains at the respondent's salon. Given the value of the items and the deterioration of the parties' relationship, I am not going to order the return of those items. In these circumstances, I will order the respondent to reimburse the applicant \$33.98 for the door chime only. The applicant is free to try and return the balance of the items to the store.
13. The applicant is entitled to pre-judgment interest on the \$33.98 from March 2, 2018, the date she provided a copy of the receipt to the respondent.
14. As the respondent was the substantially successful party, in accordance with the Act and the tribunal's rules, I find the applicant must bear the expense of her tribunal fees.

## **ORDERS**

15. I order the respondent to immediately pay the applicant \$33.98 for the door chime, plus \$0.25 in pre-judgment interest, for a total of \$34.23. The balance of the applicant's claims are dismissed.
16. 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.

17. 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