



# Civil Resolution Tribunal

Date Issued: October 10, 2018

Files: SC-2018-002709 and SC-2018-002710

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Marin v. Stokes et al*, 2018 BCCRT 602

**B E T W E E N :**

Cynthia Marin

**APPLICANT**

**A N D :**

Bethany Stokes and Rebekah Stokes

**RESPONDENTS**

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## **REASONS FOR DECISION**

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Tribunal Member:

Shelley Lopez, Vice Chair

## **INTRODUCTION**

1. The applicant, Cynthia Marin, says she loaned each of the respondents, Bethany and Rebekah Stokes, money for a 2017 Christmas vacation cruise and travel (trip).

The applicant's son E was at the time of the trip dating the respondents' teenage sister, M, who also went on the trip.

2. The applicant seeks repayment of \$3,900 from each of the respondents, which she says the respondents each agreed to repay but have failed to do so. The respondents deny any obligation to repay, saying the trip was a gift. The applicant is self-represented and the respondents are represented by Rebekah Stokes.

## **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. Some of the evidence in this dispute amounts to a "he said, he said" scenario. Credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note the recent decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized the tribunal's process and that oral hearings are not necessarily required where credibility is in issue.

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 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 these disputes are whether the respondents each owe the applicant \$3,900 as reimbursement for a 2017 Christmas trip.

## **EVIDENCE AND ANALYSIS**

8. I have only commented on the evidence and submissions to the extent necessary to give context to these reasons. This is a civil matter and the burden of proof on the applicant is the balance of probabilities. “Beyond a reasonable doubt” is the criminal standard of proof, and contrary to the submission of Bethany Stokes (Bethany), it does not apply to this dispute.
9. The applicant filed 2 separate dispute applications, one against Bethany and the other against Rebekah Stokes (Rebekah). The substance of the disputes is identical. Bethany and Rebekah expressly chose not to provide any documentary evidence, but Rebekah provided written submissions on their behalf, discussed further below.
10. It is undisputed that the respondents did not pay for their travel on the trip. The applicant alleges both respondents had verbal agreements with her to repay the applicant for their trip expenses. It is undisputed that the applicant did not contact the respondents about repaying the trip expenses until at least March 8, 2018.

11. It is undisputed that the respondents' parents would only allow M to go on the trip if the respondents attended also, because at the time M was 17 years old. However, the applicant says Bethany and Rebekah each wanted to go on the trip with their sisters, but did not have the money up front to pay for the trip. The applicant says she agreed to pay for the trip and that each of the respondents agreed to repay her in installments. It is undisputed that the applicant's son E paid for M. Either during or after the trip, E and M broke up.
12. The applicant made the trip arrangements in August 2017 and paid the deposits for the December 23, 2017 trip. The trip ended when the parties returned home on January 1, 2018.
13. The respondents say there was never any agreement about repayment, and they expected the trips to be paid for, as the applicant had allegedly done in the past.
14. The applicant submits that there were multiple discussions with the respondents and their parents, including during thanksgiving dinner in October 2017 and during a December 16, 2017 dinner party. However, the applicant has provided no documentation to support her assertion the respondents agreed to pay for the trip.
15. The respondents also say that the applicant's adult son R, who also went on the trip, told them that the trip was covered by his family, and that R knew the respondents could not afford to pay for the trip and would not have gone had they been expected to pay. The applicant says R denies making those statements and that R did not know who paid for the trip. Yet, I have no statement from R in evidence.
16. The respondents were young adults at the time of the trip, aged 19 and 20. I accept that they were happy to go on the trip with the applicant's family and their sister M. However, I find that if the applicant had wanted such significant sums to be repaid by the respondents, she likely would have created documentation to that effect. The fact that the applicant on her own evidence waited for 2 months before asking the respondents about the trip expenses supports the conclusion that at the

time the trip was taken, she did not expect repayment. As noted above, E paid for M, but the respondents' and M's parents would not let M go unless the respondents also attended. I find the more likely scenario is that the applicant opted to pay for the respondents as well, to facilitate M's attendance on the trip.

17. While verbal agreements are still enforceable, the reality is that they are typically much harder to prove than written agreements. In the circumstances summarized above, I find the applicant has not proved on a balance of probabilities that the respondents agreed to pay for their attendance on the trip. I therefore find the applicant's claims must be dismissed.
18. There are no tribunal fee reimbursement requests.

## **ORDER**

19. I find the applicant's claims, and therefore these disputes, must be dismissed.

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Shelley Lopez, Vice Chair