Civil Resolution Tribunal

Date Issued: December 17, 2018

File: SC-2018-003184

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Clegg v. Stone,* 2018 BCCRT 860

B E T W E E N :

Laurie Clegg

APPLICANT

A N D :

David Stone

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about alleged personal loans the applicant, Laurie Clegg, says she made to the respondent, David Stone, during their 14-month relationship. The applicant claims reimbursement of $1,514.72. The respondent disputes that the

outstanding amount claimed is a repayable loan, except for $175 that he agrees to repay for accidentally scratching her car in January 2018. The respondent says other than this $175, the rest of the money was all incidental living expenses that each party paid to contribute to the household and there was never any agreement about repayment.

2. The parties are each self-represented.

JURISDICTION AND PROCEDURE

3. 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.

4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. 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 that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found 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 issue in this dispute is whether the applicant made repayable loans to the respondent or whether the money claimed was the applicant's contribution to the household expenses and is not repayable.

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 submissions below as necessary to explain my decision.

9. It is undisputed that the applicant paid various small amounts to the respondent over the course of the parties' 14-month relationship. Their relationship ended on March 3, 2018, at which time the respondent moved out of the applicant's home.

10. The applicant says the small loans were repaid along the way, until November 2017 when "the amount just kept climbing". The applicant says she told the respondent he was to start paying the money back in February 2018 as the respondent had started a new job in January 2018. Yet, in February 2018 the respondent did not start repayments. The applicant says the parties spoke again, and that the respondent promised to start payments in March 2018, but that did not happen in March or April 2018. The applicant then started this tribunal proceeding.

11. The applicant says the money was for the respondent's expenses, not hers: his pharmacy, doctor, cigarettes, gas, lottery tickets, his 1/3 of household bills, his ½ share for groceries, and the 2 "scrapbook weekends" he promised to pay for. The applicant says her routine practice with loans to any friends and family is to keep track and record every loan and its purpose. In support, the applicant provided a

copy of her "bookkeeping" style of entry that shows the monthly small payments between January 2017 and February 2018. This evidence is in the form of a typed brief list, without any signatures or names or method of payment. The applicant also provided evidence of numerous e-transfers to the respondent. The "bookkeeping" entries include the e-transfers.

12. Most significantly, the applicant provided a copy of the respondent's March 4, 2018 text message sent the day after the respondent moved out. In it, the respondent answered the applicant's debt claim of $1,214.75, plus 3 rings that are not in issue in this dispute. The respondent stated that "My balance owing is $1,215 minus $260 I gave you for March rent". The applicant said the $1,214.75 already reflected a deduction for March rent. The respondent then texted back "Regardless, I will commit to a payment schedule of $150.00 per check or $300 per month until I'm paid up".

13. In his brief submission, the respondent says that there was never any loan agreement with the applicant, that he paid his bills and shared expenses regularly "which is shown". In support, the respondent provided one document in evidence, titled "David Stone Transfer History 2018". The respondent says he never asked for repayment from the applicant for these transfers, and this shows that the parties paid for things for each other from time to time and none of those payments were repayable loans.

14. The respondent's "transfer history" is a copy of Interac e-transfers to the applicant between February 24, 2017 and March 16, 2018. I accept that the respondent sent those funds, but I find there is insufficient evidence to support a conclusion that this money was a loan to the applicant. In other words, I find that the evidence does not support a conclusion that these e-transfers from the respondent would in any way off-set the applicant's claims in this dispute.

15. On balance, I find the weight of the evidence, and in particular the respondent's March 4, 2018 text acknowledging a debt of at least $1,214.75, supports the conclusion that the applicant's payments to the respondent were repayable loans. I

do not accept the respondent's submission that the applicant's claimed debt represents her share of contributions that were matched by the respondent's transfer history. Notably, the respondent did not address in his submission his debt acknowledgement. I find the respondent must repay the applicant $1,214.75.

16. The applicant's $1,514.27 claim is for the $1,214.75 plus $300 for the car scratch repair. The applicant provided no other evidence about the car scratch, such as a repair quote or invoice. In these circumstances, I find the applicant is limited to $175 for the car scratch, which is the amount the respondent agreed to pay for it. The applicant is therefore entitled to payment of $1,389.75.

17. I find the applicant is entitled to pre-judgment interest on the $1,389.75 under the *Court Order Interest Act* (COIA), from March 4, 2018, the day after the parties' relationship ended. I find this date is most reasonable and proportionate, as the evidence before me is insufficient to establish the specific dates of the many loans. The interest payable is $14.82.

18. In accordance with the Act and the tribunal's rules, I find the applicant is entitled to reimbursement of $125 in tribunal fees. The applicant also claimed $181.23 in dispute-related expenses, but did not provide any receipts or any explanation as to what this expense was for. I dismiss this $181.23 claim.

ORDERS

19. Within 14 days of this decision, I order the respondent to pay the applicant a total of $1,529.57, comprised of:

    a. $1,389.75 in debt,

    b. $14.82 in pre-judgment interest under the COIA, and

    c. $125 in reimbursement of tribunal fees.

20. The applicant's remaining claim is dismissed. The applicant is 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 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.

Shelley Lopez, Vice Chair