



Civil Resolution Tribunal

Date Issued: December 17, 2018

File: SC-2017-005076

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lee v. Lee*, 2018 BCCRT 867

BETWEEN:

Bing Lee

APPLICANT

AND:

Kal H Lee

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about various alleged personal debts the applicant, Bing Lee, says the respondent Kal H Lee, owes. The applicant claims reimbursement of \$3,818.

2. In his Dispute Response filed at the outset of this proceeding, the respondent only stated “the claim is not accurate because he isn’t being truthful”. The respondent however chose not to provide any evidence or submissions for this decision, despite numerous reminders of the timelines to do so.
3. 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. 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.
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.

ISSUE

8. The issue in this dispute is whether the respondent owes the applicant the claimed \$3,818 for various personal debts.

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 submissions below as necessary to explain my decision.
10. The applicant submits that in April 2017 he provided various loans to the respondent. At the time, the parties were friends. The applicant claims the following personal debts, from April 2017, totaling \$3,818, the amount claimed in this dispute:
 - a. \$2,200, which the respondent borrowed for a cemetery plot deposit. In support, the applicant provided an April 23, 2017 form from the cemetery, showing the deposit required was \$2,166.46.
 - b. \$900, for cosmetics the applicant paid for on behalf of her friend who later returned the cosmetics to the respondent. In support, the applicant says the respondent promised to refund the \$900, but never did. The applicant provided a handwritten tally that shows the cosmetics were worth various amounts in USD, with an equivalent value of \$1,332.36 CAD.
 - c. \$168, for a car repair. The applicant provided a receipt dated April 26, 2017.
 - d. \$350, for a brand new massage machine that the applicant bought and loaned to the respondent, which the respondent did not return. The applicant provided a \$350 receipt for the massage machine's purchase.

- e. \$200, for cosmetics samples that the applicant obtained from the respondent that he charged the applicant for, but the applicant says the respondent “deceived me” and the samples were supposed to be free.
11. I find the applicant’s documentary evidence supports all claims, except for the \$200 for the cosmetics supplies. However, given the respondent chose not to provide any evidence or submissions and provided only a general and vague Dispute Response, I draw an adverse inference against the respondent. In other words, I find it is appropriate to assume the applicant’s evidence is correct on the issue. I therefore conclude the applicant is entitled to reimbursement of the \$3,818 claimed.
 12. The applicant is entitled to pre-judgment interest under the Court Order Interest Act (COIA) on the \$3,818, from April 26, 2017, the date I consider most reasonable on all of the evidence before me.
 13. In accordance with the Act and the tribunal’s rules, as the applicant was successful I find he is entitled to reimbursement of \$175 in tribunal fees. There were no dispute-related expenses claimed.

ORDERS

14. Within 14 days of this decision, I order the respondent to pay the applicant a total of \$4,059.81, comprised of:
 - a. \$3,818 in debt,
 - b. \$66.81 in pre-judgment interest under the COIA, and
 - c. \$175 in tribunal fees.
15. The applicant is entitled to post-judgment interest, as applicable.
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.

Shelley Lopez, Vice Chair