



Civil Resolution Tribunal

Date Issued: December 17, 2018

File: SC-2017-005108

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Adwell Financial Services Inc v. Angelucci*, 2018 BCCRT 868

B E T W E E N :

Adwell Financial Services Inc

APPLICANT

A N D :

Kristen Angelucci

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about payment for loans provided by the applicant, Adwell Financial Services Inc, to the respondent, Kristen Angelucci. The applicant claims \$1,287 as repayment for the loans.

2. While the applicant had originally also named Ares Quijntos as a co-respondent, that respondent was never served with the Dispute Notice. Therefore, I have amended the style of cause above to reflect the proceeding continued against Ms. Angelucci only.
3. The respondent Ms. Angelucci admits the debt and says she is doing her best, but due to financial constraints needs a payment plan.
4. The applicant is represented by an employee or principal. The respondent is self-represented.

JURISDICTION AND PROCEDURE

5. 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.
6. 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.
7. 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.

8. 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

9. The issue in this dispute is whether the respondent owes the applicant the claimed \$1,287 for personal loans, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

10. 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.
11. Together with Ares Quintos, the respondent borrowed \$1,500 from the applicant on December 16, 2016, with a 26-month term of repayment. The agreed interest rate was 41.92% per year.
12. The parties' agreement was that it would debit \$100 from the respondent's account bi-weekly from January 29, 2017 through January 14, 2019. However, the applicant says the respondent only made one payment and then the applicant was never successful in getting money from the respondent's account.
13. On June 20, 2017, the applicant wrote the respondent and advised her outstanding balance was \$1,557.07. However, the applicant has reduced its claim to \$1,287. The applicant does not claim contractual interest on this amount.
14. As noted above, the respondent agrees that she owes the \$1,287 debt claimed. In these circumstances, I find it is unnecessary to review the contract in any further detail.

15. I find the applicant is entitled to an order for \$1,287, plus pre-judgment interest under the *Court Order Interest Act* (COIA), from June 20, 2017, which I find is the most reasonable date in the circumstances, given the history summarized above.
16. I note the applicant's statement that she cannot afford to pay the debt in full at once. The respondent's financial constraints do not change the applicant's entitlement to the order that the respondent must pay the debt. Nothing in this decision prevents the respondent from raising her financial circumstances in any enforcement of this order, which would be a matter for the Provincial Court, not the tribunal.
17. In accordance with the Act and the tribunal's rules, as the applicant was successful I find it is entitled to reimbursement of \$125 in tribunal fees. There were no dispute-related expenses claimed.

ORDERS

18. Within 14 days of this decision, I order the respondent to pay the applicant a total of \$1,433.16, comprised of:
 - a. \$1,287 in debt,
 - b. \$21.16 in pre-judgment interest under the COIA, and
 - c. \$125 in tribunal fees.
19. The applicant is entitled to post-judgment interest, as applicable.
20. 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.
21. 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