



Civil Resolution Tribunal

Date Issued: February 14, 2019

File: SC-2018-002964

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *EASYFINANCIAL SERVICES INC. v. Weir*, 2019 BCCRT 182

B E T W E E N :

EASYFINANCIAL SERVICES INC.

APPLICANT

A N D :

Michaelah Weir

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The applicant, Easyfinancial Services Inc., lent the respondent, Michaelah Weir, \$5,100 on January 10, 2017. The applicant took payments for the loan directly from the respondent's bank account pursuant to a Pre-Authorized Debit Agreement (PAD Agreement). The respondent revoked the PAD Agreement because she says that the applicant tried to take a payment contrary to the terms of their agreement. The

respondent has not made a payment towards the loan since revoking the PAD Agreement.

2. The applicant claims \$3,866.62, the outstanding balance of the loan, plus \$340.86 in other fees. The applicant also claims contractual interest of 46.96%.
3. The applicant is represented by an employee. The respondent is not 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 118 of the *Civil Resolution Tribunal 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. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
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 make one or more of the following orders:
 - a. order a party to do or stop doing something;
 - b. order a party to pay money;

- c. order any other terms or conditions the tribunal considers appropriate.

ISSUES

8. The issue in this dispute is whether the respondent breached the loan agreement.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant must prove its case on a balance of probabilities. While I have read all of the parties' evidence and submissions, I only refer to what is necessary to explain and give context to my decision.
10. As a preliminary matter, I will address the amount of the applicant's claim. The monetary limit for claims under the tribunal's small claims jurisdiction is \$5,000. In *EASYFINANCIAL SERVICES v. Rosvold*, 2019 BCCRT 68, the tribunal found that contractual interest must together with the principal debt fall within the tribunal's monetary limit. While that dispute is not binding on me, I agree with it and find that the same analysis applies to this dispute.
11. The applicant's claim, including contractual interest, is over \$5,000. Section 118(2) of the Act allows the applicant to adjust its claim to fit within the monetary limit of the tribunal. I gave the applicant the option to abandon its contractual interest claim above \$5,000. In response, the applicant abandoned its claim above \$5,000.
12. Turning to the merits of this dispute, on January 10, 2017, the respondent signed a loan agreement and the PAD Agreement. The loan agreement provided for biweekly payments of \$184.59 starting on January 20, 2017. The principal amount of the loan was \$5,100 and the interest rate was 46.96%.
13. The loan agreement said that if the respondent failed to make a scheduled payment, the entire loan would immediately become due. The loan agreement required the respondent to authorize the applicant to directly withdraw each payment from a bank account through the PAD Agreement.

14. The PAD Agreement said that if it tried to withdraw money from the respondent's account but the withdraw failed, the applicant could try again at its sole discretion and without any notice to the respondent.
15. The applicant provided a printout of the respondent's account that showed all of the activity on the respondent's loan account. The respondent did not dispute its accuracy despite having the opportunity to do so in reply.
16. The account shows that the respondent failed to make payments on June 28, 2017 and September 29, 2017. Since June 28, 2017, the entire loan has been due and payable.
17. The respondent continued to make payments towards the loan until January 2018. On January 19, 2018, the respondent revoked the PAD Agreement. The applicant attempted to use the PAD Agreement to take more payments, but was unsuccessful.
18. In this dispute, the respondent says that she revoked the PAD Agreement because the applicant tried to take 2 payments in the same month. The respondent does not explain this position any further. The respondent had been making at least 2 payments per month from the outset. It is therefore unclear why the respondent revoked the PAD Agreement.
19. The applicant submits that the respondent breached the agreement by failing to make payments against the loan according to the loan agreement. I agree.
20. I also find that the respondent breached the loan agreement by revoking the PAD Agreement. The respondent has not proven that the applicant breached the loan agreement or the PAD Agreement, or provided any other justification for failing to pay the loan.
21. Accordingly, I order the respondent to pay the applicant \$5,000.
22. Under section 49 of the Act, and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable

dispute-related expenses. I see no reason in this case not to follow that general rule. I find the applicant is entitled to reimbursement of \$175 in tribunal fees and \$84 in dispute-related expenses.

ORDERS

23. Within 28 days of the date of this decision, I order the respondent to pay the applicant a total of \$5,259, broken down as follows:
 - a. 5,000 for the loan and service fees, including contractual interest, and
 - b. \$259 for \$175 in tribunal fees and \$84 for dispute-related expenses.
24. The applicant is entitled to post-judgment interest, as applicable.
25. 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.
26. 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.

Eric Regehr, Tribunal Member