



Civil Resolution Tribunal

Date Issued: March 11, 2019

File: SC-2018-004614

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Contact Resource Services Inc. v. Arndt*, 2019 BCCRT 295

B E T W E E N :

Contact Resource Services Inc.

APPLICANT

A N D :

Trevor Wayne Arndt

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. The applicant Contact Resource Services Inc. says the respondent Trevor Wayne Arndt owes it \$3,185.94 plus contractual interest.
2. The respondent does not contest that he owes the applicant the claimed amount. He says that, due to disability, he does not have the funds to repay the applicant.

3. The applicant is represented by employee Angela Sawicka. The respondent is 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 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 owes the applicant the claimed amount.

EVIDENCE AND ANALYSIS

9. On January 18, 2011, the respondent opened an account with Canadian Tire Financial. Contractual interest on the account was an annual rate of 25.90%.
10. The applicant made purchases on the account.
11. On December 20, 2012, the respondent made a payment of \$105. After this date, he did not make any further payments on the account.
12. On August 6, 2013, the account was “charged off” due to delinquency. At that time, the balance owing was \$3,185.94.
13. On April 15, 2016, Canadian Tire Financial assigned the liability and interest to the applicant.
14. I agree with the applicant that the applicable limitation period is six years, under the former *Limitation Act*, which was in effect when the claim was discovered, which I find was the date of the applicant’s last payment.
15. The last payment on the account was made on December 20, 2012. The Dispute Notice was issued on June 25, 2018, within the six-year period. I find that the applicant’s claim was started in time.
16. Since the respondent filed no evidence or submissions, and raised no defences to the debt claim, I allow the applicant’s claims. I find that the contractual interest is payable from December 20, 2012 date when the claim was discovered.
17. There have now been two cases from the BC Provincial Court (*Telus Services Inc. v. Hussey*, 2016 BCPC 41 and *Canadian Tire Bank v. Konkin*, 2018 BCPC 151)

which say that contractual interest is a substantive claim under the contract. In these cases the court held that in section 3.1 of the *Small Claims Act*, the reference to the court's monetary limit "excluding interest" refers only to interest under the *Court Order Interest Act*, and not to contractual interest. The *Small Claims Act* is incorporated by reference into the *Civil Resolution Tribunal Act* in section 118 (4), which means these Provincial Court decisions are binding on this tribunal.

18. Here, the contractual interest would be \$5,129.54. The total amount owing on substantive claims, \$8,315.48, would exceed the \$5,000 monetary limit. I find that due to the limit on the tribunal's monetary jurisdiction, I cannot make an order for substantive claims over \$5,000. The applicant agreed to abandon the amount over \$5,000. I order contractual interest of \$1,814.06, bringing the total for substantive claims to \$5,000.
19. 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.

ORDERS

20. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$5,175. This is made up of the \$3,185.94 owing, plus contractual interest of \$1,814.06, plus \$175 in tribunal fees.
21. The applicant is entitled to post-judgment interest, under the *Court Order Interest Act*, as applicable.
22. 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.

23. 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.

Julie K. Gibson, Tribunal Member