



# Civil Resolution Tribunal

Date Issued: April 10, 2019

File: SC-2018-005106

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Flexfi Inc. v. Gutera et al*, 2019 BCCRT 445

**B E T W E E N :**

Flexfi Inc.

**APPLICANT**

**A N D :**

Princess Roxanne G Gutera and Rose Anne Marie G Gutera

**RESPONDENTS**

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## **REASONS FOR DECISION**

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Tribunal Member:

Julie K. Gibson

## **INTRODUCTION**

1. The applicant Flexfi Inc. says it loaned money to the respondents Princess Roxanne G Gutera and Rose Anne Marie G Gutera, but has not been re-paid. The applicant claims the outstanding balance of \$3,059.36.

2. The respondents agree that they co-borrowed money from the applicant but say they are unsure of the amount that remains owing. After filing their Dispute Responses, the respondents did not file any evidence or submissions.
3. The applicant is represented by principal or employee Alan Atienza. The respondents 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 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 respondents must pay the \$3,059.36 claimed by the applicant.

## EVIDENCE AND ANALYSIS

9. This is a civil claim in which the applicant bears the burden of proof on a balance of probabilities. I have reviewed all of the evidence and submissions but refer to them here only as necessary to explain my decision.
10. On March 21, 2017, the applicant loaned the respondents \$3,000 at an annual interest rate of 44%. The respondents signed a promissory note as “co-borrowers” with the main borrower, EG, who is not a party to this dispute.
11. Under the loan agreement, total payments of \$3,754.47 were to be made by 12.37 months later.
12. The applicant provided details of the loan account, showing that some payments were made but that, as of July 12, 2018, \$3,059.36 remained owing.
13. This is a simple debt claim in which I find that the respondents owe the applicant the claimed \$3,059.36, based on the uncontested documentary evidence.
14. The applicant did not claim contractual interest but did claim prejudgment interest under the *Court Order Interest Act*. I will calculate prejudgment interest from July 12, 2018, which is when the applicant stopped applying contractual interest to the loan account, to the date of this decision.
15. 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

16. Within 30 days of the date of this decision, I order the respondents to pay the applicant a total of \$3,281.74, broken down as follows:
  - a. \$3,059.36 in repayment under the loan agreement,
  - b. \$47.38 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$175 for tribunal fees.
17. The applicant is entitled to post-judgment interest, as applicable.
18. 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.
19. 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.

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Julie K. Gibson, Tribunal Member