



Civil Resolution Tribunal

May 1, 2019

File: SC-2018-008587

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Brooks-Hill v. BELL MOBILITY INC. BELL MOBILITE INC.
dba Virgin Mobil Canada, 2019 BCCRT 521*

B E T W E E N :

James Brooks-Hill

APPLICANT

A N D :

BELL MOBILITY INC. BELL MOBILITE INC. dba Virgin Mobil Canada

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This is a summary decision about whether the Civil Resolution Tribunal (tribunal) should refuse to resolve this dispute under section 10 (1) of the *Civil Resolution Tribunal Act* (Act) for being outside the tribunal's jurisdiction.

2. The applicant, James Brooks-Hill, is self-represented. The respondent, BELL MOBILITY INC. BELL MOBILITE INC. dba Virgin Mobil Canada, is represented by an employee or principal.

JURISDICTION AND PROCEDURE

3. These are the tribunal's formal written reasons. 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.
4. 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.
5. 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.
6. Under tribunal rule 9.3(2), 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

7. The issue is whether the tribunal should refuse to resolve this dispute under section 10 (1) of the Act.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, the applicant bears the burden of proving their claim on a balance of probabilities. I have only addressed the parties' evidence and submissions to the extent necessary to explain and give context to my decision. For the following reasons, I find the dispute is outside the tribunal's jurisdiction and I therefore must refuse to resolve it.
9. Although not explicitly stated in either of the parties' submissions, the applicant was evidently a customer of the respondent's mobile phone services in 2016. The applicant says in October 2016 he received a bill from the respondent which was more than double the amount he was told it would be. He says the respondent refused to provide a detailed accounting or explain the amount of the bill.
10. The respondent says the applicant received a device upgrade on July 5, 2016. The retail purchase price of the phone was \$549.99, but the applicant entered into a 24-month contract for the phone such that he paid only \$99.99 that day, and the balance remaining was \$431.25. One of the terms of the applicant's contract was that each month \$18.75 would be deducted from the balance owing on the phone. The respondent says within 3 months of signing the contract the applicant cancelled it, triggering an early exit charge which the respondent billed to him.
11. The applicant wants the tribunal to declare that he does not owe the respondent \$700 because the respondent's debt claim against him is out of time under the *Limitation Act*.
12. Under section 118 of the Act, for small claims matters the tribunal has jurisdiction over claims for debt or damages, recovery of personal property, specific performance of an agreement relating to personal property or services, and relief from opposing claims to personal property. The tribunal does not have jurisdiction over declaratory relief (see *Evans v. Campbell*, 1993 CanLII 2600 (BC CA) at paragraph 5.)

13. There is no indication the applicant paid the respondent any amount of the bill he received in October 2016, he is not seeking a refund of any payment to the respondent, and there is no indication the applicant suffered any other loss or injury. I find the nature of the applicant's claim is strictly for declaratory relief, and therefore I find the tribunal does not have jurisdiction to resolve the dispute.
14. The parties' submissions focused on whether the applicant was out of time to bring the dispute. As I have found the tribunal does not have jurisdiction to resolve the dispute, it is unnecessary for me to determine whether the applicant's claim was out of time. However, even if the tribunal did have jurisdiction to resolve the dispute, I would have found the applicant was out of time to bring the dispute. The time began running on the 2-year limitation period under the *Limitation Act* at the time the applicant first learned about the debt to the respondent. It is undisputed that the applicant discovered the debt in October 2016, and the Dispute Notice was not issued until December 5, 2018 which is more than 2 years after the applicant discovered the debt.
15. In the circumstances, I find the tribunal does not have jurisdiction to resolve the dispute, and therefore I refuse to resolve the dispute under section 10 (1) of the Act.

Sarah Orr, Tribunal Member