



Civil Resolution Tribunal

Date Issued: May 17, 2019

File: SC-2018-009283

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *EASYFINANCIAL SERVICES INC. v. Lamotte*, 2019 BCCRT 599

BETWEEN:

EASYFINANCIAL SERVICES INC.

APPLICANT

AND:

Kayle Lamotte

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about a personal loan agreement. The respondent, Kayle Lamotte, borrowed \$1,277.45 from the applicant, EASYFINANCIAL SERVICES INC., at an agreed annual interest rate of 46.96%. The applicant claims an outstanding principal balance of \$1,277.45, plus \$73.48 in product fees and \$71.30 in product service fees to November 30, 2018, and contractual interest to date.

2. The respondent did not dispute he owes the money, but said the amounts were inaccurate. However, the respondent chose not to provide evidence or submissions for this decision. The applicant is represented by an employee and, while participating, the respondent was self-represented.
3. For the reasons that follow, I allow the applicant's claims.

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. 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 British Columbia Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is an issue.
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 9.3(2), 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.

ISSUE

8. The issue in this dispute is whether the respondent must repay the amount claimed under the personal loan agreement.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
10. The respondent chose not to provide any evidence or submissions for this decision. In his Dispute Response filed at the outset of this proceeding, he disagreed with the claimed amounts and interest rate, and asked to go over the financial documentation.
11. The evidence shows that on August 11, 2018, the applicant advanced the respondent \$1,277.45 as a personal loan. The parties' agreement required semi-monthly payments over a 12-month term, with the first payment due on September 1, 2018 and the last payment due on August 15, 2019.
12. Based on the applicant's "history" document, the respondent never made a payment towards the loan. The applicant, therefore, claims the full \$1,277.45 as the outstanding principal.

13. On balance, I find the applicant has proved the respondent owes \$1,277.45, which I find is not substantively disputed given the respondent's decision not to provide evidence or submissions.
14. The respondent's first 6 pre-authorized payments were NSF. However, the applicant has not claimed any NSF charges.
15. The loan agreement also shows the respondent chose to buy insurance, referred to as the applicant's optional "loan protection program." The insurance portion of the respondent's required semi-monthly payment was \$19.15. In this dispute, the applicant claims \$73.48, which amount I am unable to entirely reconcile with the applicant's records. However, the amount claimed by the applicant is less than what I find the respondent would have owed for the time period from August 11, 2018 to November 30, 2018, when the product was terminated. On balance, I find the applicant has proved the respondent owes \$73.48 for the loan protection plan.
16. The loan agreement also shows the respondent chose to enroll in a credit monitoring service for \$8.90 payable semi-monthly. The applicant claims \$71.30, however I calculate this amount to be \$53.40 to November 30, 2018. I find the applicant has proved the respondent owes \$53.40 for the credit monitoring service.
17. I now turn to interest. Contrary to the respondent's Dispute Response statement that he disagreed with the interest rate, the parties' loan agreement shows the respondent agreed to an annual interest rate of 46.96%, and so I allow it. As such, I find the respondent owes interest on the \$1,277.45 principal award at the rate of 46.96% per year from August 11, 2018 to the date of this decision. This equals \$458.55.
18. In accordance with the Act and the tribunal's rules, as the applicant was successful in this dispute it is entitled to reimbursement of \$125 in tribunal fees. There were no dispute-related expenses claimed.

ORDERS

19. Within 14 days of the date of this decision, I order the respondent to pay the applicant a total of \$1,987.88, broken down as follows:
 - a. \$1,404.33 in debt;
 - b. \$458.55 in pre-judgment contractual interest at 46.96% per annum; and
 - c. \$125.00 in tribunal fees.
20. The applicant is also entitled to post-judgment interest, as applicable.
21. 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.
22. 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.

Andrea Ritchie, Vice Chair