



Civil Resolution Tribunal

Date Issued: May 23, 2019

File: SC-2019-000724

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hundal v. Blackstone Credit Collections Inc.*, 2019 BCCRT 619

B E T W E E N :

MINDER MINDY HUNDAL

APPLICANT

A N D :

BLACKSTONE CREDIT COLLECTIONS INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about debt collection practices. The applicant, Minder Mindy Hundal, says that the respondent, Blackstone Credit Collections Inc., harassed her and breached portions of the *Business Practices and Consumer Protection Act* (BPCPA). The respondent disagrees and says that it notified Ms. Hundal of her debt without harassing her or breaching the BPCPA.

2. The applicant is self-represented. The respondent is represented by Ajay Gupta, who I infer is an employee or principal of the respondent.

JURISDICTION AND PROCEDURE

3. 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.
4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In this case I am persuaded that an oral hearing is not necessary. Although the parties disagree on some aspects of the evidence, 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 make an order 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.
7. Section 11(1)(a)(i) of the Act states that the tribunal may refuse to resolve a claim or dispute within its jurisdiction if the claim or dispute would be more appropriately

resolved through another legally binding process or dispute resolution process. As I explain below, I have decided to refuse to resolve this claim.

ISSUE

8. The issue is whether the applicant is entitled to damages for alleged harassment by the respondent debt collector.

EVIDENCE AND ANALYSIS

9. The parties' submissions and evidence largely focus upon whether the respondent breached section 116(4) of the BPCPA. That provision states that a debt collector must not continue to communicate with a debtor if the debtor has notified the collector and the creditor that the debt is in dispute and that the debtor would like the creditor to take the matter to court. The applicant also submits more generally that she was harassed. I have therefore considered both the BPCPA and the "tort of harassment" in reviewing the evidence, as discussed below.
10. In a December 17, 2018 letter to the applicant, the respondent stated that it was acting as a debt collector. The respondent also named the creditor it was acting for and the amount currently owing to its client.
11. The applicant received this letter on December 19, 2018, and on that same day she phoned the respondent. In the recorded telephone call, she told the respondent that she had paid the creditor approximately \$10,000 and had proof of this payment. The applicant also referred to further amounts owing to the creditor that she would not pay, and that she would "take this to court". She also said that the creditor overcharged her and that she wanted to know what invoice the creditor had provided the respondent. The applicant agreed to provide proof of payment to the respondent.
12. The applicant submitted that she contacted Consumer Protection BC after the December 19, 2018 phone call. In a subsequent December 24, 2018 email,

Consumer Protection BC advised the applicant that it had sent an email to the respondent. The email advised the respondent that the applicant was disputing the debt and requesting the creditor to take the applicant to court. The email cited section 116(4) of the BPCPA.

13. On January 2, 2019, several emails were exchanged, which I summarize below. The respondent asked for proof of payment. The applicant replied on the same date that the respondent could contact her again, but only to provide her with the creditor's invoices. The respondent sent another January 2, 2019 email, but did not provide the requested invoices and instead asked the applicant how she could have paid her debt if the creditor did not provide her an invoice. The respondent also wrote that the applicant never mentioned that she wished to dispute the debt. In several reply emails, the applicant told the respondent to stop contacting her and that she had reported the respondent to Consumer Protection BC. The applicant also told the respondent to tell the creditor to take her to court.
14. The respondent continued to send further letters dated January 10 and 18, 2019, advising that the creditor would likely take further action. The respondent also invited the applicant to contact it to discuss matters further.
15. On January 21, 2019, Consumer Protection BC directly emailed the respondent and noted that the applicant was under no obligation to provide any additional documents to the respondent. Consumer Protection BC also referred to section 116(4) of the BPCPA. The respondent replied by email that same day and advised that it had already "returned" its file to the creditor for it to commence court proceedings. In a subsequent January 24, 2019 email, Consumer Protection BC wrote that if the respondent sent more collections letters, the file would be forwarded for further investigation. There is no indication in the evidence and submissions before me that the respondent continued to contact the applicant after January 2019.
16. As noted, this dispute is about whether the respondent breached section 116(4) of the BPCPA. I find that I should refuse to resolve this dispute for two reasons.

17. First, there is another legally binding process in place that best addresses the applicant's main request that the respondent stop harassing her. The BPCPA contains a comprehensive scheme for the regulation of debt collectors, including the issuance and enforcement of compliance orders. Section 155(3) of the BPCPA specifies that such compliance orders are used to order a person to stop engaging in or not engage in a specified act or practice. The January 2019 emails show that Consumer Protection BC was actively involved in the process of enforcing and administering the BPCPA and it appears that the respondent has voluntarily ceased contact with the applicant.
18. Second, the applicant requested damages of \$1,000 in her submissions. Section 171 of the BPCPA states the Provincial Court has jurisdiction over proceedings to recover damages for failure to comply with it. I am therefore unable to award damages under the BPCPA even if a breach of that statute is proven.
19. Next, I considered whether the applicant could sue for damages regarding a "tort of harassment", apart from the statutory regime in the BPCPA. The applicant's submissions and evidence essentially argue that the respondent committed a tort of harassment, independent from the BPCPA. However, in *Total Credit Recovery v. Roach*, 2007 BCSC 530, Madam Justice Koenigsberg observed that "the weight of authority in this Province is against the development of such a tort". It therefore appears doubtful that the tort of harassment is a recognized cause of action in Canada.
20. In summary, I refuse to resolve the applicant's claim under section 11 of the Act. I do not have jurisdiction to grant remedies under the BPCPA, and the *Total Credit Recovery* decision, which binds me, says there is no common law tort of harassment in BC. I have therefore not considered the merits of the applicant's claims.
21. Given my decision, in accordance with the Act and the tribunal's rules, I find the applicant is not entitled to reimbursement of tribunal fees or dispute-related expenses

ORDERS

22. Under section 11 of the Act, I refuse to resolve the applicant's dispute.

David Jiang, Tribunal Member