



# Civil Resolution Tribunal

Date Issued: July 18, 2019

File: SC-2018-005195

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Steven Paul, dba Andre's Electronic Experts v. McNeely*,  
2019 BCCRT 861

B E T W E E N :

Steven Paul (Doing Business As Andre's Electronic Experts)

**APPLICANT**

A N D :

Bryan McNeely

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Lynn Scrivener

## INTRODUCTION

1. This is a dispute about payment for goods. The applicant, Steven Paul (Doing Business As Andre's Electronic Experts), says that the respondent, Bryan McNeely, owes money for appliances he purchased. The applicant seeks an order for payment of \$2,970.60. The respondent says that he has paid the outstanding balance in full, and that he does not owe the applicant any money.

2. The parties are self-represented.

## **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* (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 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**

7. The issue in this dispute is whether the respondent owes the applicant \$2,970.60.

## **EVIDENCE AND ANALYSIS**

8. In a civil dispute such as this, an applicant bears the burden of proof on a balance of probabilities. The parties have provided evidence and submissions in support of their respective positions. While I have considered all of this information, I will refer to only that which is necessary to provide context to my decision.
9. The respondent purchased a number of appliances from the applicant for use in a new home he was building. The applicant arranged for the respondent's financing with a third-party financing company for the purchase. The November 24, 2016 sales order confirms that the financing company approved the applicant for \$13,000 in financing. A listing of payments to the applicant from the financing company shows that the respondent used this entire amount.
10. The applicant says that, after making the initial order, the respondent added additional items that were over the credit limit extended by the financing company, resulting in an outstanding balance of \$2,970.60. The applicant seeks an order for payment of that amount.
11. While the respondent does not dispute that he received the described items from the applicant, he denies that he owes more money. The respondent says the applicant "financed the entire thing" and then told him 2 months later that he owed additional funds. The respondent says he has confirmed with the financing company that he has paid his balance in full, and submits that the applicant is responsible if it "messed up on the financing". Further, the respondent says the invoices are wrong and contain errors in terms of pricing, his address, and the dates he picked up various items. He says that he has been asking for, but has not received, copies of the original paperwork with his signatures on them.
12. The applicant says there are no signed receipts as the respondent picked up his own products at the store. The applicant also says that the prices shown on the invoices are accurate.

13. The applicant produced 4 invoices for the respondent. According to the payment record contained on the sales order, the invoices issued on March 24, 2017 (\$8,124.34), March 25, 2017 (\$1,431.58), and April 13, 2017 (\$449.23) all had corresponding debits from the amount of the financing and were paid in full. The final invoice on April 24, 2017 (\$5,965.45) only received a payment of \$2,994.85, which was the amount remaining on the \$13,000 financing. That left an outstanding balance of \$2,970.60.
14. I acknowledge the respondent's submission that he received damaged floor models or open boxes for some items which would have resulted in lower prices than those demonstrated on the invoices. While this may be so, it does not establish that the invoices produced by the applicant were inaccurate or altered. Further, the fact that he has a zero balance with the third party finance company does not establish that there is nothing owing to the applicant.
15. The evidence before me establishes that the respondent receives product in excess of the \$13,000 that was contemplated in the initial quote and for which financing was extended. The respondent admits that he received these items. Whether or not the applicant made an error in the financing as the respondent suggests, I find that he agreed to purchase the various items and is responsible for their cost.
16. I order the respondent to pay to the applicant the outstanding balance of \$2,970.60.
17. I also find that the applicant is entitled to pre-judgment interest. The parties' agreement set out the interest payable to the third-party financing company, but not the interest rate payable to the applicant. Therefore, calculated from the date of the invoice, the applicant is entitled to \$85.33 under the *Court Order Interest Act*.
18. 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 \$175.00 in tribunal fees and \$50.00 in dispute-related expenses. As the respondent was unsuccessful, I dismiss

his application for reimbursement of the \$50 he paid to set aside an earlier default decision that had been granted against him.

## **ORDERS**

19. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$3,280.93, broken down as follows:
  - a. \$2,970.60 in outstanding payment for goods received;
  - b. \$85.33 in pre-judgment interest under the Court Order Interest Act, and
  - c. \$225.00 for \$175.00 in tribunal fees and \$50.00 for dispute-related expenses.
20. The applicant is 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.

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Lynn Scrivener, Tribunal Member