



Civil Resolution Tribunal

Date Issued: September 4, 2019

File: SC-2019-002964

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *El Yaakoubi et al v. Iqra Education Society DBA Iqra Islamic School*, 2019
BCCRT 1049

B E T W E E N :

SAFA EL YAAKOUBI and LAHCEN EL OUAFI

APPLICANTS

A N D :

IQRA EDUCATION SOCIETY DBA IQRA ISLAMIC SCHOOL

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. In February 2017 the applicants, Safa El Yaakoubi and Lahcen El Ouafi, enrolled their son in the respondent school, Iqra Education Society DBA Iqra Islamic School. At the time of enrollment, the applicants paid a \$1,000 deposit to the respondent

which they say was refundable if they later withdrew their son from the school. The applicants withdrew their son from the school in 2019 and they want the respondent to refund their \$1,000 deposit.

2. The respondent says the \$1,000 payment was a non-refundable acceptance fee that all families must pay when their first child is admitted to the school, and therefore they are not required to refund it to the applicants.
3. The applicants are self-represented and the respondent is represented by an employee.

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* (CRTA). 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. Some of the evidence in this dispute amounts to a "they said, they said" scenario. Credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanor in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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 the decision *Yas v. Pope*, 2018 BCSC

282 at paragraphs 32 to 38, in which the court recognized the tribunal's process and that oral hearings are not necessarily required where credibility is in 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, where permitted under section 118 of the CRTA:
 - 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 applicants are entitled to a refund of their \$1,000 deposit.

EVIDENCE AND ANALYSIS

9. In a civil claim like this one, the applicants must prove their claim on a balance of probabilities. This means I must find it is more likely than not that the applicants' position is correct.
10. 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 dismiss the applicants' claims.
11. It is undisputed that in 2017 the applicants paid the respondent a \$1,000 deposit when they registered their son in the school. The applicants say the respondent told them at the time of payment that the deposit was refundable if they withdrew their

son from the school. The applicants submitted a receipt they received from the school for the \$1,000 payment which has a check mark next to a box labelled "RD." They say the respondent told them "RD" stands for "refundable deposit."

12. The respondent denies this and says "RD" stands for "registration deposit." It says it told the applicants this on numerous occasions. The applicants note that there is another box on the receipt for "registration," and they say it does not make sense that "RD" would stand for "registration deposit," as that would be redundant. However, the evidence indicates that the respondent charged a \$200 or \$300 registration fee in addition to the deposit, so I do not find the applicants' argument on this point to be persuasive.
13. The respondent says its policy has been to charge new families a non-refundable \$1,000 deposit since 2015. It says it notifies all families about the non-refundable deposit in its fee schedules and registration documents. It submitted its fee schedules and registration packages for the 2015/16, 2016/17 and 2017/18 school years which all state that each family is required to pay a one-time \$1,000 deposit prior to registration or assessment. All of these documents clearly state in bold font or capital letters that the \$1,000 deposit is non-refundable.
14. The respondent says it also notifies families of the non-refundable \$1,000 deposit with signage in its accountant's office, and that its administrative staff and accountant verbally inform new families of all fees during the registration process.
15. The applicants say that in 2017 there was no sign in front of the respondent's accountant office stating that the \$1,000 deposit was non-refundable, and that the respondent installed such a sign after spring break in 2019 when it started this dispute. The applicants also submitted screenshots of the registration page on the respondent's website taken on January 14, 2017, December 18, 2018, April 20, 2018, October 21, 2018, and sometime in 2019. The first 4 screenshots do not mention any \$1,000 deposit, but the last screenshot shows the respondent added a paragraph requiring a "one-time \$1,000 non-refundable payment."

16. On balance, I prefer the respondent's evidence and I find the \$1,000 deposit was non-refundable. The evidence before me shows that the relevant school documents clearly notified the applicants that the deposit was non-refundable, and the applicants have failed to provide documentary evidence to support their contention that the respondent told them otherwise. The fact that the respondent may have added additional signage in its accountant's office and additional information about the deposit on its website after the applicants brought this dispute does not discredit the respondent's position. Rather, I find it shows the respondent reasonably responded to a perceived misunderstanding about the nature of the \$1,000 deposit. While both "refundable deposit" and "registration deposit" are plausible explanations for the meaning of "RD" on the receipt, I find the balance of the evidence supports the respondent's position that parties' agreement was that the deposit was non-refundable.
17. The applicants are responsible for proving their claims. I find they have not done so, and I dismiss them.
18. Under section 49 of the CRTA 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. Since the applicants were unsuccessful I find they are not entitled to reimbursement of their tribunal fees, and they have not claimed any dispute-related expenses.

ORDER

19. I dismiss the applicants' claims and this dispute.

Sarah Orr, Tribunal Member