



Civil Resolution Tribunal

Date Issued: September 26, 2019

File: SC-2019-003632

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Martin v. King*, 2019 BCCRT 1133

BETWEEN:

JOSHUA MARTIN

APPLICANT

AND:

MATTHEW KING

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. The applicant, Joshua Martin, says the respondent, Matthew King, owes him for various loans, unpaid rent, and unreturned items. The applicant claims a total of \$2,750.50, plus interest. The respondent says he does not owe the applicant anything.

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* (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.
4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, both sides have called into question the credibility of the other. Credibility of witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me.
5. 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 the decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. I decided to hear this dispute through written submissions.
6. 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.

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:
8. The evidence and submissions before me show that the parties were roommates. Generally, the tribunal does not take jurisdiction over residential tenancy disputes, which are decided by the Residential Tenancy Branch (RTB). However, the *Residential Tenancy Act* (RTA) does not apply to this dispute because the RTB refuses jurisdiction over “roommate disputes”, such as this one. For that reason, I find the dispute is within the tribunal’s small claims jurisdiction over debt and damages, as set out in section 118 of the CRTA.
9. The applicant also asks that the tribunal fine and imprison the respondent for theft. The tribunal has no jurisdiction over criminal matters and I refuse to resolve such claims.

ISSUES

10. The applicant says he loaned money and lent various items to the respondent. The issue is whether the applicant is entitled to payment or compensation for loans, rent, and various personal items.

EVIDENCE AND ANALYSIS

11. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
12. As background, the respondent moved in with the applicant in mid-March 2019. The applicant claims a total of \$2,750.50 for the following:
 - a. \$600 for a March 4, 2019 loan,
 - b. \$500 for a March 12, 2019 loan,
 - c. \$322.60 for unpaid March 2019 rent,

- d. \$700 for unpaid April 2019 rent,
- e. \$112.90 for unpaid May 2019 rent,
- f. \$100 for vodka,
- g. \$50 for a network adapter,
- h. \$15 for a hardhat,
- i. \$150 for food,
- j. \$20 for gas and cigarettes,
- k. \$30 for gas,
- l. \$50 for an Xbox controller, and
- m. \$100 for coveralls.

Issue #1. \$600 for a March 4, 2019 Loan.

13. The parties agree that the respondent borrowed \$600. A bank transfer document shows the funds were transferred on March 4, 2019.
14. The parties agree that the respondent repaid the applicant \$800, as documented in two bank transfer documents dated April 2 and 24, 2019. The applicant submits it is unclear whether this amount was used to repay the \$600 loan or satisfy other claims. However, he did not provide a specific explanation for what the repayment was for.
15. I find that the \$600 loan was repaid by the April 2019 transfers, based in large part on the parties' May 8, 2019 text exchange. The respondent wrote that he owed the respondent \$1,050 for "the loan and food", for which he gave \$800 in partial payment. I find the "loan" in this text message was the March 4, 2019 loan. The applicant replied that the respondent owed other additional amounts beyond \$1,050 but did not otherwise question what the repayment was for.

16. I find the applicant has not proved the respondent still owes this \$600 and so I dismiss this claim.

Issue #2. \$500 for a March 12, 2019 Loan.

17. The applicant says he took the respondent shopping on March 12, 2019 and paid for expenses totaling \$500. He says this loan is composed of three parts. He loaned \$264.17 for groceries, \$150 for marijuana, and \$85.83 for other purposes he does not recall. The applicant provided a receipt for the groceries only.

18. The respondent acknowledges borrowing \$200 for groceries but says he repaid this amount as part of the \$800 payment, referenced above. He did not address the other amounts claimed.

19. The respondent admits he owes \$250. He explained he owed a global debt of \$1,050, for which he paid \$800. I find the text messages support the conclusion that the global debt was composed of the \$600 loan of March 4, 2019 (discussed above) and \$450 for the March 12, 2019 shopping trip. The March 12, 2019 loan was partially paid, leaving \$250 owing.

20. I allow the applicant's claim in part and find the respondent must repay \$250 for the March 12, 2019 loan.

Issue #3. \$1,135.50 for Unpaid Rent from March 12 to May 5, 2019.

21. The applicant says the parties had a verbal agreement for rent. He claims for the following periods, which I will consider together:

- a. \$322.60 for unpaid March 2019 rent (calculated at \$500 per month for a period of 20 days, starting from the move-in date of March 12, 2019),
- b. \$700 for unpaid April 2019 rent, and
- c. \$112.90 for unpaid May 2019 rent (calculated at \$700 per month for a period of 5 days, ending on May 6, 2019).

22. The respondent disagrees and says he stayed as a houseguest for the entire time period. As noted above, the RTA does not apply to the parties' agreement about the respondent's occupancy in the applicant's home.
23. I find the applicant has met the burden of proof for this claim. Several text messages support a conclusion the parties had a verbal rental agreement. In one message the respondent texted, prior to moving in, that he "may be renting [the] basement from [the applicant]".
24. There was also a third-party tenant living with the parties at the time. When asked by the applicant about the parties' arrangement (after this dispute started), the third-party tenant texted that the primary reason the respondent moved was to help him, as the respondent was facing various financial difficulties at the time. The third-party tenant also wrote that the respondent was supposed to contribute to rent and make his own rent payments cheaper, but he did not remember how much the respondent was supposed to pay. I find this evidence supports the existence of a verbal rental agreement and explains why the applicant did not press for payment earlier, as the respondent was down on his luck.
25. I also find the time period, from mid-March to early May 2019 (nearly two months), is on the evidence before me more consistent with a rental agreement rather than a houseguest arrangement.
26. I acknowledge that the respondent provided a rent receipt at a different property for the entire month of March 2019. However, the text messages show he wanted to move out as that property was undergoing renovations. There is also no evidence he paid rent for the following months at any location. Although the respondent denied owing rent in a May 9, 2019 text message, I place little weight upon that message. By that time the respondent had moved out and the parties' relationship had deteriorated.
27. This leaves the issue of how much rent is owing. The applicant provided a statement from his landlord showing he paid \$1,100 per month from March to May

2019. He says the rent charges include an amount for utilities. The respondent's rent increased in April 2019 as the third-party tenant moved out at that time. The claimed monthly rate of \$500 and subsequent rate of \$700 appears consistent with the applicant's costs of renting as primary tenant, plus additional amounts for utilities.

28. On balance, I find the respondent owes the claimed rent amounts for March to May 2019, being a total of \$1,135.50. The respondent provided pro-rated calculations for the rent and I find them to be accurate.

Issue #4. \$100 for Vodka.

29. The applicant says the respondent drank his vodka without permission and promised to replace it. The respondent denies any of this ever happened.

30. Given the conflicting accounts and lack of other evidence, I find the applicant has not met his burden of proof.

31. I dismiss this claim.

Issue #5. \$50 for a Network Adapter.

32. The applicant says he loaned the respondent a network adapter to "scan and hack wireless password keys". He says the respondent never returned it. The respondent denies any of this ever happened.

33. Given the conflicting accounts and lack of other evidence, I find the applicant has not met his burden of proof.

34. I dismiss this claim.

Issue #6. \$15 for a Hardhat.

35. The applicant say she lent a hardhat to the respondent for work and it remains unreturned. The respondent says he returned the hardhat.
36. The applicant provided a text message between the parties to support this claim. The respondent texted that he forgot the hardhat at a jobsite, but his friend would retrieve it. I find this text message consistent with the return of the hard hat. I also note that the applicant accused the respondent of taking a drill by text, but later apologized for being mistaken. This demonstrates that the applicant's view of what the respondent took or borrowed may not be entirely reliable. In the circumstances, I find the applicant has not met his burden of proof.
37. I dismiss this claim.

Issue #7. \$150 for Food.

38. The applicant says the respondent ate much of his food without permission. The applicant says it is unclear how much the respondent ate but it certainly was more than the claim amount. The respondent denies this happened.
39. I find the applicant has not met his burden of proof. It is also inconsistent with the respondent borrowing money to purchase his own groceries.
40. I dismiss this claim.

Issue #8. \$20 for Gas and Cigarettes.

41. The applicant says that after their March 12, 2019 shopping trip they stopped at the gas station for cigarettes and fuel. The applicant says he loaned the respondent more than \$20 to cover these costs. The respondent denies this happened.
42. I find the applicant has not met his burden of proof. There is no evidence to corroborate the applicant's account.

43. I dismiss this claim.

Issue #9. \$30 for Gas.

44. The applicant says that, after lending the respondent the above-mentioned amount, the respondent borrowed more money for gas after admitting he had used most of the money on cigarettes. The respondent denies this happened.

45. I find the applicant has not met his burden of proof. There is no corroborative evidence regarding this expense.

46. I dismiss this claim.

Issue #10. \$50 for an Xbox Controller.

47. The applicant says the respondent's Xbox controller was broken. He lent one of his two controllers so that they could play together. However, the respondent then took it with him when he moved out. The respondent says this did not happen.

48. I find the applicant has not met his burden of proof. An additional hurdle is that the applicant did not say if he actually saw the respondent take his controller. He says he was playing a videogame at the time he suspects it happened.

49. I dismiss this claim.

Issue #11. \$100 for Coveralls.

50. The parties agree that the respondent borrowed the applicant's coveralls for work. However, they disagree on whether the coveralls were returned.

51. The applicant provided text messages between the parties discussing the coveralls. The applicant says he thinks the respondent lost the coveralls, but this is not expressed with certainty. As with the hardhat, it is not self-evident that the applicant could not be mistaken about the location of his coveralls. I find the applicant has not met his burden of proof.

52. I dismiss this claim.

Summary

53. In summary, I find the applicant is entitled to \$250 for the March 2019 loan and \$1,135.50 in unpaid rent, for a total of \$1,385.50. I also find the applicant is entitled to pre-judgment interest under the *Court Order Interest Act* (COIA) from May 5, 2019 on these amounts, which equals \$10.73. I find that date appropriate as by then the respondent had decided to move out.

TRIBUNAL FEES AND DISPUTE-RELATED EXPENSES

54. Under section 49 of the CRTA, and the tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable expenses related to the dispute resolution process. I see no reason in this case to deviate from the general rule.

55. The applicant was largely successful in this dispute. I therefore award the applicant \$125 for reimbursement of tribunal fees. The applicant did not claim for dispute related-expenses.

ORDERS

56. Within 30 days of this decision, I order the respondent to pay the applicant a total of \$1,521.23, broken down as follows:

- a. \$1,385.50 in debt,
- b. \$10.73 in pre-judgment interest under the COIA from May 5, 2019, and
- c. \$125.00 as reimbursement of tribunal fees.

57. The applicant is entitled to post-judgment interest under the COIA.

58. The applicant's remaining claims are dismissed.

59. Under section 48 of the CRTA, 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.
60. Under section 58.1 of the CRTA, 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.

David Jiang, Tribunal Member