



Civil Resolution Tribunal

Date Issued: November 5, 2019

File: SC-2019-004712

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Kamloops 2011 Equities Ltd. dba Speedy Cash v. Thatcher,*

2019 BCCRT 1256

B E T W E E N :

KAMLOOPS 2011 EQUITIES LTD. DBA SPEEDY CASH

APPLICANT

A N D :

ANNIE THATCHER

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. The applicant, Kamloops 2011 Equities Ltd. dba Speedy Cash, granted a loan to the respondent, Annie Thatcher, on November 13, 2018. The applicant says she owes \$380 as repayment of the principal loan, a \$57 loan fee, a \$20 dishonoured

payment fee, and \$51.98 in contractual interest at an annual rate of 30%, for a total of \$508.98.

2. In the Dispute Response filed at the outset of this proceeding, the respondent agreed that she owes the amounts the applicant claims. The respondent later failed to participate in the proceeding as required, and she did not provide evidence or submissions.
3. While she participated, the respondent was self-represented. The applicant 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. 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.
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 issues in this dispute are:
- a. Is the respondent required to pay the applicant \$457 as repayment of the loan and associated fees?
 - b. Is the respondent required to pay the applicant contractual interest, and if so, in what amount?

EVIDENCE AND ANALYSIS

9. In a civil claim like this one, the applicant must prove their claim on a balance of probabilities. This means I must find it is more likely than not that the applicant's position is correct.
10. I have only addressed the applicant's evidence and submissions to the extent necessary to explain and give context to my decision.

Is the respondent required to pay the applicant \$457 for repayment of the loan and associated fees?

11. The applicant submitted a contract the parties signed on November 13, 2018 loaning the respondent \$380 in cash, plus a \$57 finance charge, all to be repaid directly from her bank account through a payment plan in 3 installments. The first payment was due on November 23, 2018, the second was due on December 7, 2018, and the final payment was due on December 21, 2018. The applicant says the respondent did not make the first payment, and despite multiple promises to

pay, she has not made any payments under the contract. The respondent does not dispute any of this.

12. The contract requires the respondent to pay the applicant a \$20 fee for any dishonoured payments. The applicant says it made 12 attempts to withdraw money from her account, all of which were returned for insufficient funds or a frozen account. The respondent does not dispute this.

13. Under the terms of the contract, I find the respondent is required to pay the applicant \$380 as repayment of the principal loan, the \$57 finance charge, and the \$20 dishonoured payment fee, for a total of \$457.

Is the respondent required to pay the applicant contractual interest, and if so, in what amount?

14. The applicant claims \$51.98 in contractual interest on the amount owing at the rate of 30% annually, calculated to June 18, 2019, which was the date of its application to the tribunal. The respondent does not dispute this. However, the contract says interest accrues on any late payments at the rate of 2.5% per month, and it does not set out an equivalent annual rate. Section 4 of the federal *Interest Act* says that when an interest rate in a contract is expressed as a rate or percentage for any period less than one year, if the contract does not contain an express statement of the equivalent yearly interest rate or percentage, the maximum allowable interest rate is 5% per year. Therefore, I find the maximum interest rate the applicant may charge is 5% per year. Calculated from December 22, 2018 to the date of this decision, I find the applicant is entitled to \$16.61 in interest on the principal loan.

15. 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 applicant was largely successful, I find it is entitled to reimbursement of \$125 in tribunal fees. It has not claimed any dispute-related expenses.

ORDERS

16. Within 14 days of the date of this order, I order the respondent to pay the applicant a total of \$598.61, broken down as follows:
 - a. \$457 as repayment of the loan and associate fees,
 - b. \$16.61 in contractual interest at a rate of 5% annually, and
 - c. \$125 tribunal fees.
17. The applicant is entitled to post-judgment interest, as applicable.
18. 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.
19. 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.

Sarah Orr, Tribunal Member