



# Civil Resolution Tribunal

Date Issued: January 3, 2020

File: SC-2019-004461

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Cheung v. Jeon*, 2020 BCCRT 6

BETWEEN:

RONNIE CHEUNG

**APPLICANT**

AND:

HYEJI JEON

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. This is a summary decision about whether the Civil Resolution Tribunal (tribunal) should refuse to resolve this dispute under section 10(1) of the *Civil Resolution Tribunal Act* (CRTA).

2. The applicant, Ronnie Cheung, was in a romantic relationship with the respondent, Hyeji Jeon. The relationship ended and the applicant now asks the respondent to return the engagement ring or pay \$4,140, the retail price he paid. He also says the respondent agreed to repay him for purchases totaling over \$1,100. The applicant says that he abandons any amounts over the tribunal's \$5,000 small claims monetary limit.
3. The respondent denies liability on several grounds. Most significantly, she says that the tribunal lacks jurisdiction because she lives in Québec and the events giving rise to this dispute happened in Québec.
4. Both parties are self-represented.

## **JURISDICTION AND PROCEDURE**

5. These are the tribunal's formal written reasons. The tribunal has jurisdiction over small claims brought under section 118 of the 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.
6. 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.
7. 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.

8. Where permitted under section 118 of the CRTA, the tribunal may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.
9. The uncontested evidence is that the parties did not live together for at least 2 years, and so they do not meet the definition of spouses in the *Family Law Act*. I find that the *Family Law Act* does not apply to this dispute.

## **ISSUE**

10. The issue is whether the tribunal must refuse to resolve the dispute under section 10(1) of the CRTA for not being within the tribunal's jurisdiction.

## **EVIDENCE AND ANALYSIS**

11. The parties agreed to the following facts. Their relationship began in 2017 when both parties lived in Korea. The applicant moved to British Columbia in March 2018. The respondent moved to Québec in December 2018.
12. The applicant purchased the engagement ring in British Columbia on December 11, 2018. He proposed to the respondent in Québec on December 26, 2018. The respondent accepted the proposal and the ring. The applicant returned to British Columbia.
13. After the engagement, the parties' relationship was "on and off". Eventually the engagement was called off, leading to this dispute about ownership of the ring.
14. The respondent says that the tribunal does not have jurisdiction over this dispute because she lives in Québec, and the proposal and break-up happened in Québec. The respondent raised this issue in her Dispute Response and made submissions about it, but the applicant did not address the issue in his submissions.
15. In order for the tribunal to have jurisdiction, there must be a real and substantial connection between British Columbia and the facts in the dispute. If the tribunal has

jurisdiction but a party argues that some other forum is better for resolving the dispute, the test to be applied is called *forum non conveniens* (inconvenient forum). The analysis includes consideration of fairness to the parties and the need for an efficient process to resolve the dispute.

16. I will first consider whether the tribunal has jurisdiction under the “real and substantial connection” test. The Supreme Court of Canada said in *Club Resorts Ltd v. Van Breda*, 2012 SCC 17, that there are certain presumptive connecting factors that allow a court to assume jurisdiction over a dispute. These include:
  - a. the respondent lives or carries on business in the province,
  - b. the tort (wrongful act) was committed in the province, and
  - c. a contract connected with the dispute was made in the province.
17. There is no dispute that the respondent does not live, and has never lived, in British Columbia. The oral agreement to marry was made in Québec, and so is presumptively governed by Québec law. The alleged wrongful act or tort is the respondent’s retention of the engagement ring after it became apparent that the parties were not getting married. The evidence is unclear about precisely when the engagement was called off, but there is no dispute that the respondent remained in Québec at all material times. Accordingly, I find that there are no presumptive factors connecting the dispute to the tribunal.
18. The connections between this dispute and British Columbia are tenuous. The applicant resides in British Columbia and purchased the engagement ring in BC. He also purchased some items with his credit card in BC, which he says were not gifts. I find that the location of the purchases is not a strong connecting factor, given there is no evidence that the respondent was present at the time of the purchases. In *Club Resorts*, the Court said that absent other considerations, the presence of the applicant in the province will not create a relationship between the forum and the subject matter of the dispute. I find that the Court’s logic applies equally to the tribunal, and so I find that the tribunal does not have jurisdiction over this dispute.

19. In reaching this conclusion, I acknowledge that the applicant may face a more difficult route to pursue his claims. However, in *Club Resorts*, the Court emphasized the importance of maintaining a clear distinction between the tests for jurisdiction and *forum non conveniens*. Jurisdiction must be established on the basis of objective factors that connect the subject matter of the dispute with the forum. “Abstract concerns” for order, efficiency or fairness in the system, the Court said, are no substitute for connecting factors that give rise to a real and substantial connection. So although the online tribunal may be a more convenient forum than a Québec court or tribunal, convenience cannot override the lack of jurisdiction.
20. In summary, I find that the tribunal does not have jurisdiction to resolve this dispute, and so I refuse to resolve it under section 10(1) of the CRTA. As such, I have made no findings about who is entitled to ownership or possession of the ring.
21. The applicant withdrew his claim for reimbursement of tribunal fees, so I make no order about them.

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Micah Carmody, Tribunal Member