Civil Resolution Tribunal

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Civil Resolution Tribunal

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B E T W E E N :

THOMAS HUGHES and TIERNAN CASE

APPLICANTS

A N D :

BROOKLYNN SEATTER

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Shelley Lopez, Vice Chair

INTRODUCTION

1. The parties are former friends and this dispute is about trip expenses. The applicants, Thomas Hughes and Tiernan Case, live in Ontario. The respondent,

Brooklynn Seatter, lives in British Columbia. The parties agree they planned a Florida trip together and agreed to share travel expenses. However, the parties also agree they had a falling out when the respondent was staying at the applicants' residence before the planned Florida trip.

2. The applicants claim various expenses related to the planned Florida trip, totaling $936.21. The applicants also claim a total of $700 in counselling expenses, which they say were incurred due to the respondent's alleged behaviour during the parties' disagreement before the Florida trip fell through.

3. The respondent says the trip expenses at issue were either gifts or are otherwise not her responsibility because of the hostile environment the applicants allegedly created.

4. The parties are each self-represented. For the reasons that follow, I allow the applicants' claims in part.

JURISDICTION AND PROCEDURE

5. 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.

6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me.

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 by section 118 of the CRTA, in resolving this dispute 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.

ISSUES

9. The issues in this dispute are:

    a. Does the respondent owe $936.21 for various trip-related expenses, or, were those expenses a non-repayable gift or otherwise not owed due to the applicants' alleged hostile conduct?

    b. Are the applicants entitled to $700 in counselling expenses because of the respondent's alleged hostile conduct?

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicants must prove their claim, on a balance of probabilities. I have discussed below the burden on Ms. Seatter for items she says were gifts. I have only referenced the evidence and submissions as necessary to give context to my decision.

11. First, a general background. Late evening on June 13, 2019, Ms. Seatter flew from BC to Ontario. She arrived at the applicants' home on June 15, 2019. The parties' scheduled departure was June 22, 2019. However, as noted above, the parties had a falling out on June 18, 2019. As discussed further below, I find it unnecessary to set out the details of the parties' argument, which in any event is not particularly clear on the evidence before me. Late on June 19, 2019, Ms. Seatter flew home to BC. No one went to Florida. It is undisputed Mr. Hughes booked all hotels and flights on a non-refundable basis in order to obtain a less expensive rate for the parties.

12. Mr. Hughes and Ms. Seatter exchanged texts after June 19, 2019, both regretting the tense situation as between Ms. Seatter and Mr. Case but neither expressing any anger at the other. This changed on June 24, 2019 when Mr. Hughes texted Ms. Seatter that he was frustrated she had not offered to pay a 1/3 share of his cancellation expenses, saying that Ms. Seatter was "the one that caused this". Ms. Seatter denies she was the cause of the trip cancellation, and says the applicants could still have gone on the trip.

13. The applicants do not explain why they did not go on the Florida trip without the respondent. Based on the evidence before me, I infer they were upset by the parties' disagreement and no longer wanted to go. I find nothing turns on this, because Ms. Seatter is only being asked to pay her own 1/3 share of the non-refundable expenses.

14. As noted above, the parties agree they would share the Florida trip expenses, and the evidence shows the agreement was 3-ways. Ms. Seatter says she should not have to pay her 1/3 share of the Florida trip expenses. She says the applicants breached the parties' agreement by creating a "hostile environment", referring to the parties' disagreement on June 18, 2019. Ms. Seatter also says she had to spend $638.55 to fly home from Ontario, and so she suggests the parties are essentially even. In contrast, the applicants say Ms. Seatter caused the hostile environment.

15. Contrary to the applicants' suggestion, I find the text messages between Ms. Seatter and Mr. Hughes after June 18, 2019 show that it was a mutual decision for her to return home to BC. The text messages also support a conclusion that Mr. Case had refused to speak to Ms. Seatter. While after the fact Mr. Hughes suggested she could have stayed elsewhere in Ontario while they worked things out, I find her decision to return home to BC was not unreasonable in the situation. However, I am also not prepared to conclude on the evidence before me that the "hostile environment" was entirely any of the parties' fault.

16. As another example, just after noon on June 19, 2019, Ms. Seatter texted Mr. Hughes asking, "Is everything okay?". Mr. Hughes' response was amicable, with Mr.

Hughes later adding, “I wish Saturday/Sunday didn’t happen / And I hope to clear it one day / I don’t think he’s done for good talking to you”. I infer the “he” reference is to Mr. Case. Mr. Hughes added, “I think he knows you care but I think it was just a lot of things over and over happening”. I find the tenor of this exchange supports the conclusion that Ms. Seatter is not entirely to blame for the parties’ falling out. She alleges the applicants said hurtful things to her also, and the applicants do not expressly deny this.

17. After Ms. Seatter left BC, she and Mr. Hughes continued to text. Both apologized for what happened, but in context I find this was more a reflection of the fact that they both felt sad about what happened rather than either taking blame.

18. On balance, I find all of the Florida-related trip expenses should be split so that Ms. Seatter pays a 1/3 share, consistent with the parties’ agreement. However, I also find that Ms. Seatter’s $638.55 flight expense amounts to what is in law known as a ‘set-off’. In other words, I also find that Ms. Seatter must only bear 1/3 of the $638.55 expense, with the applicants bearing the other 2/3 share. I say this because I find that the parties are equally responsible for the cancellation of the Florida trip and Ms. Seatter’s departure home early.

19. I turn then to the particular expenses claimed and Ms. Seatter’s response to them.

Alleged gifts

20. There are 2 trip-related expense claims, totaling $62.15, which Ms. Seatter says were gifts. One is a Lyft ride share bill ($37.15) for Ms. Seatter’s June 14, 2019 trip from the Ontario airport to the applicants’ home. The other is a Presto Card (e-purse) deposit ($25).

21. As for the Lyft ride, Ms. Seatter says she “was encouraged to take the flight she did and the Lyft ride was offered to make the flight work”. Mr. Hughes denies this.

22. As for the Presto card deposit, Mr. Hughes says Ms. Seatter told him to ”add it to her bill”. Ms. Seatter says he asked for her Presto card information “without any

context" and she gave it without thinking because the Florida trip was a surprise for Mr. Case. Ms. Seatter says she would have been able to add money herself. Ms. Seatter appears to therefore argue the $25 was a gift.

23. Under the law of gifts, once the applicants have proven that they transferred money or goods, the burden shifts to the person alleging the gifts, in this case Ms. Seatter (see *Pecore v. Pecore*, 2017 SCC 17).

24. For there to be a legally effective gift, three things are required: an intention to donate, an acceptance, and a sufficient act of delivery. The context of the parties' friendship at the time of the alleged gift is relevant, but not determinative. The evidence needs to show that the intention of the items as gifts was inconsistent with any other intention (see *Lundy v. Lundy*, 2010 BCSC 1004). I find the weight of the evidence does not show Ms. Hughes intended to gift the Lyft ride and the Presto card deposit to Ms. Seater. Given all of the other trip-related items were clearly planned as shared expenses, I find it unlikely these 2 items would have been gifts. I find Ms. Seatter must reimburse Mr. Hughes $62.15 for the Lyft ride and Presto card deposit.

Florida trip expenses

25. I have addressed above my findings about these expenses. Ms. Seatter does not dispute the amounts of the claimed Florida trip expenses which total $874.06 CAD, for which the applicants submitted receipts together with a USD/CAD conversion. The figures below are in CAD. Generally, this figure represents Ms. Seatter's 1/3 share of hotels and train trips, plus the cost of Ms. Seatter's return Florida flights. I find Ms. Seatter owes Mr. Hughes the $874.06, and I note it is undisputed Mr. Case did not incur any of the expense personally.

26. As referenced above, I find Ms. Seatter's $638.55 flight expense to return home should be a shared expense between all 3 parties, which is $227.85 each. So, I deduct $455.70 ($227.85 x 2) from the applicants' $874.06 award. This equals

$418.36. Together with the $62.15 for the Lyft ride and Presto card, I find Ms. Seatter must pay Mr. Hughes $480.51.

The counselling expenses

27. Mr. Hughes claims a total of $555 for 3 counselling sessions ($185 each) he says he had on July 13, 30, and August 6, 2019. Mr. Case claims a total of $145 for 5 counselling sessions he says he had on June 19, July 30, August 21, August 30, and September 4, 2019. In Mr. Case's claim, the last 4 sessions cost only $10.

28. Briefly, the applicants say Ms. Seatter is responsible for the counselling because on reflection they realized she had not been a good friend to them. Ms. Seatter denies the applicants' allegation that she engaged in bullying and manipulative behaviour, which allegedly started before the parties' June 2019 falling out.

29. First, I find there is no legal basis for Ms. Seatter to be held responsible for the claimed counselling expenses. To the extent the applicants argue Ms. Seatter's conduct amounted to harassment, to date the tort of harassment is not recognized in BC. In any event, on the evidence before me I do not accept Ms. Seatter contacted the police to harass the applicants, which she denies.

30. Second, I have found above that based on the evidence before me, the applicants have not proved Ms. Seatter is responsible for the parties' falling out. The limited evidence before me indicates responsibility on all sides.

31. As one example, the applicants allege Ms. Seatter harassed Mr. Case by attending at his workplace. Yet, the evidence before me shows Mr. Case texted both Mr. Hughes and Ms. Seatter to thank them for surprising him at work. I find the tone of this text is inconsistent with the harassment allegation.

32. Third, Mr. Hughes did not provide any supporting documentation to prove his expenses were incurred. Neither applicant provided sufficient evidence to show counselling (extending into August and September 2019) was necessarily related to

Ms. Seatter's conduct in June 2019. Given my conclusions above, I dismiss the applicants' claims for counselling expenses.

Interest, fees, and dispute-related expenses

33. The *Court Order Interest Act* (COIA) applies to the tribunal. Mr. Hughes is entitled to $5.98 in pre-judgment interest on the $480.51, from Ms. Seatter's June 19, 2019 departure back to BC, a date I find reasonable in the circumstances.

34. Under the CRTA and the tribunal's rules, as the applicants were partially successful, I find they are entitled to reimbursement of half their $125 in paid tribunal fees, so $62.50. The applicants also claim dispute-related expenses: $50 for "co-working space for documents and printing services", and $15 for two police reports. The applicants provided no supporting documentation for these claims. Further, the tribunal is online and so I do not agree printing services were required. Further, I find the police reports were not relevant to this dispute. I dismiss the applicants' claim for dispute-related expenses.

35. The respondent claims $224 in "legal services". She provided no evidence to support this claim. In any event, the tribunal ordinarily does not award reimbursement of a party's legal fees, which is consistent with section 20 of the CRTA that says self-representation is generally expected. This is not an extraordinary case. I dismiss the respondent's $224 dispute-related expense claim.

ORDERS

36. Within 30 days of this decision, I order Ms. Seatter to pay Mr. Hughes a total of $548.99, broken down as follows:

    c. $480.51 in debt,

    d. $5.98 in pre-judgment interest under the COIA, and

    e. $62.50 as reimbursement for tribunal fees.

37. The applicants' remaining claims are dismissed, including all claims brought by Mr. Case. The respondent's dispute-related expense claim is dismissed. The applicants are entitled to post-judgment interest on the monetary award above.

38. 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.

39. 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.

Shelley Lopez, Vice Chair