



# Civil Resolution Tribunal

Date Issued: June 4, 2020

File: SC-2020-001396

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Nazari v. Unger*, 2020 BCCRT 617

BETWEEN:

SADIA NAZARI

**APPLICANT**

AND:

WENDY UNGER

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Richard McAndrew

## INTRODUCTION

1. This claim is about a personal loan. The applicant, Sadia Nazari, says the respondent, Wendy Unger, owes \$300.
2. The respondent says she does not owe a debt to the applicant. The respondent admits that she borrowed \$300 from the applicant. However, the respondent says

that she does not need to repay it because the applicant owes her an offsetting debt for unpaid driving services.

3. The applicant says the respondent is not entitled to any set-off against the personal loan.
4. Both parties are self-represented.

## **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, or a combination of these. Though I found that some aspects of the parties' submissions called each other's credibility into question, I find I am properly able to assess and weigh the documentary evidence and submissions before me without an oral hearing. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always necessary when credibility is in issue. Further, bearing in mind the tribunal's mandate of proportional and speedy dispute resolution, I decided I can fairly hear this dispute through written submissions.
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, pay money or make an order that includes any terms or conditions the tribunal considers appropriate.

## **ISSUES**

9. The issues in this dispute are:
  - a. Does the respondent owe a debt of \$300 from a personal loan?
  - b. Is the respondent entitled to a set-off from any amounts owed?

## **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this, the applicant must prove their case on the balance of probabilities.
11. While I have read all of the parties' evidence and submissions, I only refer to what is necessary to explain and give context to my decision. I note that the respondent did not provide any evidence or submissions even though she had an opportunity to so.
12. The parties agree that the applicant loaned \$300 to the respondent on June 6, 2019. The respondent signed a document confirming this debt. I am satisfied that the respondent borrowed \$300 from the applicant on June 6, 2019.
13. Both parties agree that the respondent has not repaid the debt. The respondent argues that she does need to do so because the applicant owes her money for unpaid driving services.
14. The respondent says the applicant agreed to pay her \$10 per day for driving services. The respondent says she drove the applicant and her son at least 50 times. The respondent says the applicant only paid her \$150, leaving \$350 owing for driving services.

15. The applicant denies this. The applicant says she agreed to pay the respondent \$100 per month for driving services which was fully paid.
16. There is no counterclaim and I do not find the respondent's driving services claim to be sufficiently related to this dispute. Furthermore, the respondent has not provided any evidence to prove that the applicant owes her a debt for unpaid driving services. For these reasons, I find that the respondent is not entitled to a set-off from the personal loan.
17. I find that the respondent owes the applicant the amount of \$300.
18. The *Court Order Interest Act* applies to the tribunal. The applicant is entitled to pre-judgment interest on the debt from June 6, 2019, the date of the loan to the date of this decision. This equals \$5.85.
19. 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. I find the applicant is entitled to reimbursement of \$125 in tribunal fees.

## **ORDERS**

20. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$430.85, broken down as follows:
  - a. \$300 in debt,
  - b. \$5.85 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$125 in tribunal fees.
21. The applicant is entitled to post-judgment interest, as applicable.
22. 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. The Minister of Public Safety and Solicitor General has issued a Ministerial Order under the *Emergency Program Act*, which says that tribunals may waive, extend or suspend a mandatory time period. The tribunal can only waive, suspend or extend mandatory time periods during the declaration of a state of emergency. After the state of emergency ends, the tribunal will not have this ability. A party should contact the tribunal as soon as possible if they want to ask the tribunal to consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.

23. 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.

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Richard McAndrew, Tribunal Member