



# Civil Resolution Tribunal

Date Issued: June 9, 2020

File: SC-2020-000921

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sibenik v. Canadian Credit Corporation*, 2020 BCCRT 639

BETWEEN:

PAUL SIBENIK

**APPLICANT**

AND:

CANADIAN CREDIT CORPORATION

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kristin Gardner

### INTRODUCTION

1. This dispute is over a \$125 parking ticket debt that went to collections and impacted the credit report of the applicant, Paul Sibenik.
2. The applicant says that he learned of an unpaid debt on his credit profile when applying for a mortgage. He says the debt was “illegitimate” and the respondent

collection agency, Canadian Credit Corporation, should not have reported the debt to Equifax Canada (credit bureau).

3. The applicant claims \$1,114.80 in “economic damages” and \$1,500 in punitive damages and for time spent addressing the issue, for a total of \$2,614.80.
4. The respondent says that it properly reported the debt to the credit bureau.
5. The applicant is self-represented. The respondent is represented by employee.

## **JURISDICTION AND PROCEDURE**

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT 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.
7. The CRT 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.
8. The CRT 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 CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
9. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

## **ISSUE**

10. The issue in this dispute is whether the respondent improperly reported a debt against the applicant to the credit bureau and, if so, what is the appropriate remedy?

## **EVIDENCE AND ANALYSIS**

11. In a civil claim such as this, the applicant bears the burden of proof on a balance of probabilities. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.

### ***Background***

12. The respondent says that on April 5, 2019 their client (EP), a parking lot business, asked them to help collect a \$125 unpaid parking ticket debt. EP provided the respondent with the applicant's name and address as the registered owner of the vehicle that had received the ticket. After sending a letter to the applicant and receiving no response, the respondent reported the debt to the credit bureau at EP's request. EP is not a party to this dispute.
13. The applicant says he does not owe a "legitimate" debt to EP. It is not clear whether he means the parking ticket was unjustified or that he never received a ticket. In any event, he says that neither EP nor the respondent contacted him before filing the alleged debt with the credit bureau. As noted above, the applicant says he learned of the debt when applying for a mortgage and his mortgage broker told him his credit profile included an unpaid \$125 debt, which the applicant says made some lenders cautious of doing business with him. The applicant says the debt would have led to higher mortgage rates for him, but, in any event, he did not get the property he was looking at, in part because of this debt on his credit profile.

***Did the respondent improperly report a debt against the applicant to the credit bureau?***

14. The main thrust of the applicant's submission is that the respondent did not have the contractual or legal authority to report the alleged debt to the credit bureau. First, the applicant argues that the respondent improperly used the applicant's private information when it reported the alleged debt to the credit bureau.
15. The applicant acknowledges that EP has an agreement with the Insurance Corporation of British Columbia (ICBC), whereby it can obtain private information including a vehicle's registered owner's name and address. However, the applicant says that the respondent did not have the necessary authority to provide this information to the credit bureau. In evidence is a Third Party Information Sharing Agreement between EP and the respondent, which confirms the credit bureau is not an entity to whom the respondent can disclose personal information without ICBC's prior written consent.
16. The respondent says that it does not at any time disclose or report an EP debtor's name and address to the credit bureau. The respondent and the credit bureau have automated computer systems and only the violation is ultimately reported to the credit bureau, so no consent is required.
17. The applicant did not provide any evidence to support his allegation that the respondent shared his private information with the credit bureau. Therefore, I find he has not proven the respondent improperly shared his private information.
18. Next, the applicant argues that in the absence of a principal-agent relationship between EP and the respondent, the respondent should be held liable for reporting an "illegitimate" debt to the credit bureau.
19. The law of agency applies when one party (the principal) gives authority to another party (the agent) to enter contracts with third parties on its behalf. So long as the agent discloses that they are acting as an agent for the principal, the agent will not generally be liable under a contract they make between the principal and third party.

However, I find that the law of agency does not apply to this dispute. There is no allegation that the respondent entered into contracts on behalf of EP or otherwise acted to affect EP's legal relationships with third parties.

20. Rather, the respondent contracted with EP to help collect EP's debts and earn a commission on debts successfully recovered. While the contract in evidence was not dated and not signed by EP, I have no reason to believe it does not reflect the terms of the agreement between EP and the respondent. I find the contract does not create an agency relationship, but it does provide that the respondent will report to the credit bureau on applicable files. A November 6, 2018 email in evidence from EP to the respondent confirms that EP would like them to start reporting to the credit bureau. Therefore, I find that the applicant was acting on EP's instruction when it reported the applicant's alleged debt to the credit bureau.
21. This does not answer the question of whether the respondent should be liable for reporting an "illegitimate" debt to the credit bureau. I have considered the application of the *Business Practices and Consumer Protection Act* (BPCPA) to this dispute. The CRT does not have authority to award damages under the BPCPA, but it does have authority to interpret and apply the BPCPA to a claim within its jurisdiction: see *Donaldson v. Jasjit Rai (Doing Business As Joi Works Consulting)*, 2019 BCCRT 134 at para. 8, which is not binding on me but with which I agree.
22. Section 112 (1) of the BPCPA says that one must not supply false or misleading information to the credit bureau. An exception is made if they did not know the information was false or misleading or if, with the exercise of reasonable diligence, they could not have known that the information was false or misleading. For the reasons that follow, I find that the respondent has not contravened section 112 of the BPCPA.
23. The applicant's submissions focus very little on why he says his \$125 EP debt was "illegitimate". The respondent's evidence included a time-stamped photograph of the ticketed vehicle in EP's lot, along with a summary of the violation and the applicant's name as the registered owner of the vehicle. The applicant does not

deny that he was the vehicle's owner. I infer from the applicant's submissions that it may have been somebody else operating his vehicle when the parking ticket was issued. The applicant says that he filed a dispute with the credit bureau and ultimately the debt was removed from his credit history. However, in the absence of any supporting documentation, I find this insufficient to prove that the alleged debt was not properly assigned to the applicant at the time.

24. I find there is no basis on which to conclude the respondent knowingly supplied false or misleading information to the credit bureau. This leaves the question of whether with reasonable diligence the respondent could have known it provided false or misleading information. The respondent provided a letter from EP demonstrating their long-standing relationship and submitted they had no reason to doubt the information EP provided to them. Because the applicant has not said what information was false, it is not possible to determine whether reasonable diligence would have uncovered it, and it would be unfair to the respondent to find they acted unreasonably without more evidence. Therefore, I find the applicant has not proven there was anything improper in the respondent reporting the alleged debt to the credit bureau.
25. I note that the applicant argues there was no legal basis for EP to obtain his personal information as the registered vehicle owner and hold him responsible for the ticket. However, as EP is not a party to this dispute, I decline to address that issue.

### ***Damages***

26. Even if I had found that the respondent acted improperly in registering the debt with the credit bureau, I find that the applicant has not proven his claimed damages. The applicant claims \$1,114.80 in unspecified economic damages but provided no basis on which that specific amount was calculated. While he claimed the reported debt partly impacted his ability to get a favourable mortgage, no evidence of this was submitted.

27. The applicant also asks for \$1,500 in punitive damages and time spent contacting the credit bureau to resolve the issue. Punitive damages are meant to punish extreme conduct worthy of condemnation, and can only be awarded to punish harsh, vindictive, reprehensible and malicious behaviour: see *Vorvis v. ICBC*, [1985] 1 SCR 1085. Given this, awards of punitive damages are rare. Even if I had found the respondent reported the \$125 debt to the credit bureau improperly, there was no evidence of malicious or reprehensible conduct by the respondent.
28. Next, compensation for time spent is generally not the sort of expense that the CRT would order the respondent to pay, even if the applicant was successful: see CRT rule 9.5. I see no reason to deviate from that practice here. In any event, the applicant has not specified the amount of time spent or the rate at which it has been calculated. His claim for \$1,500 in punitive damages and time spent is dismissed.
29. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. As the applicant was not successful, I find that he is not entitled to reimbursement of his paid CRT fees. Neither party claimed dispute-related expenses.

## **ORDER**

30. I dismiss the applicant's claims and this dispute.

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Kristin Gardner, Tribunal Member