



# Civil Resolution Tribunal

Date Issued: June 22, 2020

File: SC-2020-000973

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Charbonneau v. Korchewski*, 2020 BCCRT 689

BETWEEN:

BRITTANY CHARBONNEAU

**APPLICANT**

AND:

DARCY KORCHEWSKI

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Trisha Apland

### INTRODUCTION

1. This dispute is over an alleged debt between former friends.
2. The applicant, Brittany Charbonneau, claims the respondent, Darcy Korchewski, owes her a total of \$1,550, in unpaid bills, rent, and tires. Mr. Korchewski admits that he owes Ms. Charbonneau some money, but disputes that he owes the full

claimed amount. Mr. Korchewski says that he only owes Ms. Charbonneau about \$667.51 for tires that she bought for his truck.

3. The parties are each self-represented.

## **JURISDICTION AND PROCEDURE**

4. 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.
5. 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.
6. 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.
7. 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.

8. In her January 30, 2020 application for dispute resolution, Ms. Charbonneau claimed that Mr. Korchewski owed her \$3,100. In her submissions, Ms. Charbonneau revised her debt claim to \$2,050, plus an additional \$900 to replace a damaged fridge. The parties reached an agreement on the fridge prior to this hearing and therefore, the fridge claim is not before me in this decision. Also, on March 5, 2020, Mr. Korchewski paid Ms. Charbonneau \$500 towards the debt. So, Ms. Charbonneau's remaining claim is for \$1,550 (\$2,050 - \$500).

## **ISSUE**

9. The remaining issue in this dispute is whether Mr. Korchewski owes Ms. Charbonneau the claimed \$1,550.

## **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this, the applicant bears the burden of proving her claims on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
11. The parties had been friends for many years. Mr. Korchewski lived in Ms. Charbonneau's homes in both Alberta and British Columbia until January 2020. The parties agree that on December 26, 2019, Mr. Korchewski signed a note stating that he owed Ms. Charbonneau a total of \$2,050 in debt.
12. The signed December 26, 2019 note in evidence lists the following items and amounts owing: \$850 ("previous"), \$750 (tires), \$525 (rent), \$75 (bills, cable internet) = 2,200 - \$150 for a total of \$2,050. Mr. Korchewski disputes that he wrote the date on the note himself, but agrees that he signed the note on December 26, 2019.
13. I find the noted items are generally consistent with Mr. Korchewski having lived in Ms. Charbonneau's home and taken over her Alberta utilities when she moved to British Columbia. Ms. Charbonneau undisputedly paid the utility fees and deposit for

services that Mr. Korchewski used. As for the tires, the receipt in evidence suggests that the tires were only \$667.51. However, Mr. Korchewski agreed by text that he owed \$750 for the tires. So, I find the tire debt was likely \$750 as in the signed note.

14. Mr. Korchewski argues that he does not owe Ms. Charbonneau for January rent because he only lived in her home for a few days. He does not say whether he is referring to the \$525 (rent) debt in the December note. The January 7, 2020 Provincial Court undertaking in evidence shows that Mr. Korchewski agreed not to communicate with Ms. Charbonneau. I find this explains why Mr. Korchewski moved out in January. On its own, it does not relieve his obligation to pay rent. I find it also does not relieve his obligation to repay the amounts he agreed were owing.
15. Mr. Korchewski says that he only signed the note because Ms. Charbonneau “was threatening to kick me out”. At law there is a general assumption that the person signing intends to be bound by the terms of the document (see *L’Estrange v. Graucob, Ltd.*, [1934] 2 KB 394 (CA)). I find Mr. Korchewski’s assertion of the threat is insufficient evidence that he signed the note under duress. I find it more likely than not that Mr. Korchewski signed the note because he agreed that he owed Ms. Charbonneau the stated amounts. I also find the parties text messages are generally consistent with a finding that he owed the debt.
16. I find that as of December 26, 2019, Mr. Korchewski owed Ms. Charbonneau a total of \$2,050. Again, Mr. Korchewski paid \$500 towards that debt on March 5, 2020. I am satisfied on the evidence before me that Mr. Korchewski owes Ms. Charbonneau \$1,550 in remaining debt.
17. Mr. Korchewski says he cannot afford to repay the debt. However, I find that this does not relieve his liability to pay. I find that Mr. Korchewski is liable and must pay Ms. Charbonneau the \$1,550 debt.
18. The *Court Order Interest Act* applies to the CRT. Ms. Charbonneau is entitled to pre-judgement interest on the \$1,550 debt from December 26, 2019 to the date of this decision. This equals \$14.91.

19. 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. I find Ms. Charbonneau is entitled to reimbursement of \$150 in CRT fees. She did not claim any dispute-related expenses and so I award none.

## **ORDERS**

20. Within 30 days of the date of this order, I order Mr. Korchewski to pay Ms. Charbonneau a total of \$1,714.91, broken down as follows:

- a. \$1,550 in debt,
- b. \$14.91 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$150 in CRT fees.

21. Ms. Charbonneau is entitled to post-judgment interest, as applicable.

22. Under section 48 of the CRTA, the CRT 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 CRT'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 CRT can only waive, suspend or extend mandatory time periods during the declaration of a state of emergency. After the state of emergency ends, the CRT will not have this ability. A party should contact the CRT as soon as possible if they want to ask the CRT 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 CRT's order can be enforced through the Provincial Court of British Columbia. A CRT 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 CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

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Trisha Apland, Tribunal Member