



Civil Resolution Tribunal

Date Issued: June 22, 2020

File SC-2019-006770

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Malvados Lifestyle Inc. v. Beach Bound Swimwear Inc.*,
2020 BCCRT 688

B E T W E E N :

MALVADOS LIFESTYLE INC.

APPLICANT

A N D :

BEACH BOUND SWIMWEAR INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Trisha Apland

INTRODUCTION

1. This is a debt claim.
2. The applicant, Malvados Lifestyle Inc. (Malvados), supplied merchandise to the respondent, Beach Bound Swimwear Inc. (Beach Bound). Malvados says Beach Bound failed to pay and claims \$4,760.21 for the unpaid merchandise.

3. Beach Bound agrees that it owes Malvados the claimed amount, but says it cannot afford to pay at this time. Beach Bound says it will agree to pay through a payment plan.
4. The parties are each represented by an employee or officer.

JURISDICTION AND PROCEDURE

5. 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.
6. 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.
7. 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.
8. 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

9. The issue in this dispute is whether Malvados is entitled to an order for payment of his outstanding invoices.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, Malvados as the applicant, must prove its case on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
11. The facts are simple. The parties entered into an agreement on February 12, 2019 for merchandise. There is no dispute that Malvados supplied Beach Bound with the agreed merchandise and Beach Bound then failed to pay for it.
12. As mentioned above, Beach Bound agrees that it owes Malvados \$4,760.21 for the merchandise. However, it says it cannot afford to pay at this time. I find Beach Bound's inability to pay does not remove its contractual obligation to pay for the merchandise it received. I find that Beach Bound is liable and must pay Malvados the claimed \$4,760.21 as shown in the invoices. Malvados can pursue enforcement, through a payment plan or a court proceeding, afterwards.
13. The *Court Order Interest Act* applies to the CRT. I find that Malvados is entitled to pre-judgement interest on the \$4,760.21 debt from the invoice due dates to the date of this decision. I have calculated the interest individually on each of the 4 invoices based on their respective amounts and due dates. The total pre-judgment interest equals \$91.85.
14. 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 that Malvados is entitled to reimbursement of \$175 in CRT fees. It claimed no dispute-related expenses.

ORDERS

15. Within 30 days of the date of this order, I order Beach Bound to pay Malvados a total of \$5,027.06, broken down as follows:

- a. \$4,760.21 for the merchandise,
- b. \$91.85 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$175 in CRT fees.

16. Malvados is entitled to post-judgment interest, as applicable.

17. 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.

18. 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.

Trisha Apland, Tribunal Member