



# Civil Resolution Tribunal

Date Issued: July 31, 2020

File: SC-2020-000580

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *T Shepherd Trucking Ltd v. Janco*, 2020 BCCRT 861

BETWEEN:

T SHEPHERD TRUCKING LTD

**APPLICANT**

AND:

RONALD JANCO and KAREN JANCO

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Sherelle Goodwin

## INTRODUCTION

1. This is a contract dispute about payment of monthly premiums for extended healthcare benefits (benefits).
2. The respondent, Ronald Janco, worked for the applicant, T Shepherd Trucking Ltd (Shepherd Trucking) until April 2018. Shepherd Trucking provided benefits for Mr.

Janco and his wife, the respondent Karen Janco, between 2016 and 2018. Shepherd Trucking says Mr. Janco verbally agreed to reimburse Ms. Janco's monthly premium cost but has not paid. Shepherd Trucking claims \$3,222.22 as reimbursement for the monthly premiums, as well as \$1,652.35 in contractual interest.

3. The respondents agree that Shepherd Trucking provided Ms. Janco's benefits. However, Mr. Janco denies agreeing to pay Shepherd Trucking for Ms. Janco's monthly premiums. The respondents say the benefits for both Jancos were part of Mr. Janco's pay package. They also say Shepherd Trucking's claim is out of time under the *Limitation Act*. The respondents ask for the dispute to be dismissed.
4. Shepherd Trucking is represented by its owner, Troy Shepherd. Mr. and Ms. Janco are both self-represented.

## **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. 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. Most of the argument in this dispute amounts to a “he said, he said” scenario, with each party calling into question the credibility of the other. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required in all cases where credibility is in issue. I have considered the CRT’s mandate of proportionality and a speedy resolution of disputes. I am satisfied that I can assess and weigh the evidence and submissions before me without holding an oral hearing.
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.

## **ISSUES**

9. The issues in this dispute are:
  - a. Did Mr. Janco agree to reimburse Shepherd Trucking the cost of Ms. Janco’s monthly premiums for extended healthcare benefits?
  - b. If so, is Shepherd Trucking’s claim out of time under the *Limitation Act*?
  - c. Must either respondent reimburse Shepherd Trucking for Ms. Janco’s monthly premiums and, if so, in what amount?

## **EVIDENCE AND ANALYSIS**

10. In a civil claim, such as this one, the applicant Shepherd Trucking must prove its claim on a balance of probabilities. I have reviewed all submissions and evidence, but I will only refer to that which explains and gives context to my decision.
11. Mr. Janco began working for Shepherd Trucking on December 1, 2014. Mr. Janco completed his application form for benefits on January 20, 2016 for both himself and Ms. Janco. Shepherd Trucking provided benefits for the Jancos as of February 1, 2016. Mr. Janco’s last day of work with Shepherd Trucking was April 27, 2018. On

May 4, 2018 Shepherd Trucking asked Mr. Janco to pay \$3,222.22 for the cost of Ms. Janco's monthly benefit premiums. None of this is disputed.

12. It is also not disputed that Shepherd Trucking paid Ms. Janco's share of monthly premiums from February 2016 to April 2018.
13. In his submissions Mr. Shepherd says he verbally explained to Mr. Janco that Shepherd Trucking provided healthcare benefits to employees only, and not spouses. Mr. Shepherd says Mr. Janco still asked whether Ms. Janco could be added to the group healthcare benefits plan. Mr. Shepherd says Mr. Janco agreed to pay the associated extra cost of approximately \$100 per month for Ms. Janco's premiums so Mr. Shepherd agreed to add Ms. Janco to the plan. Mr. Shepherd says this conversation occurred before Mr. Janco completed the January 20, 2016 application for benefits.
14. Mr. Janco denies agreeing to this. He says Mr. Shepherd never asked him to reimburse Shepherd Trucking for the cost of Ms. Janco's monthly premiums.
15. Mr. Janco says he asked Mr. Shepherd several times whether "the benefits" were part of Mr. Janco's pay package from Shepherd Trucking. In context, I find Mr. Janco meant both his and Ms. Janco's benefits. Mr. Janco says Mr. Shepherd told him he would have to "think about" it on the several occasions Mr. Janco asked Mr. Shepherd about it in the spring of 2016. Mr. Shepherd did not deny or otherwise address this allegation, despite the opportunity to do so in reply submissions. This supports a finding that there was no verbal agreement between Mr. Janco and Shepherd Trucking about repayment of Ms. Janco's monthly premiums.
16. Mr. Janco says he asked Shepherd Trucking's bookkeeper whether the cost of "the benefits" was being deducted from his pay and was told it was not. Based on the multiple paystubs Mr. Janco submitted in evidence, I find Shepherd Trucking did not deduct any amounts for extended benefits coverage from Mr. Janco's pay between 2016 and 2018.

17. Shepherd Trucking says it did not deduct Ms. Janco's benefit plan premiums from Mr. Janco's pay because Mr. Janco told Mr. Shepherd he was having financial difficulties. Mr. Shepherd says Mr. Janco described a tax debt from his prior job, and financial struggles from maintaining 2 houses. Mr. Shepherd says Ms. Janco lived in a different city from Mr. Janco until the final year of Mr. Janco's employment. I find this is not determinative of Mr. Janco maintaining 2 houses, specifically as Mr. Janco denies it. Mr. Janco also denies asking Shepherd Trucking, or Mr. Shepherd, for financial assistance during his employment.
18. Although I accept that Mr. Janco asked to park his trailer on Shepherd Trucking's property, I find that Mr. Janco did not ask Shepherd Trucking for any financial assistance. Mr. Shepherd does not suggest that he talked to Mr. Janco about deferring payment of the alleged debt for Ms. Janco's monthly premiums. I find it unlikely that Shepherd Trucking would defer seeking repayment of costs that continue to accrue monthly for over 2 years, based on an assumption that Mr. Janco had financial difficulty, without any discussion. I find Shepherd Trucking did not take any steps to recover the cost of Ms. Janco's monthly premiums from Mr. Janco, or confirm with Mr. Janco, in writing or verbally, that any amount was owing. This supports a finding that there was no agreement between Mr. Janco and Shepherd Trucking about repayment of Ms. Janco's monthly premiums.
19. Shepherd Trucking says that Mr. Janco's signature on the January 20, 2016 application for benefits for both himself and Ms. Janco shows that Mr. Janco agreed to pay Ms. Janco's monthly premiums. I disagree. The application for benefits is not a contract between Mr. Janco and Shepherd Trucking and does not obligate Mr. Janco to Shepherd Trucking in any way.
20. Shepherd Trucking says that it does not provide healthcare benefits to the spouses of employees, except in one circumstance where an employee (CS) negotiated spousal coverage in lieu of a raise. Based on a May 2, 2020 email from CS I find Shepherd Trucking has included spouses in the group healthcare benefits plan. The email does not specify that CS' spouse was included in lieu of any raise for CS. If

that had been the case, I would expect CS to have put that in his statement. So, I do not accept that Mr. Shepherd included CS' spouse in the group benefit plan instead of giving CS a raise.

21. Shepherd Trucking also submitted an undated text message from another employee who wrote that he was on an employee only benefit plan through Shepherd Trucking. The message does not say whether this employee has a spouse or other family to include on any benefit plan. Neither this text message, or the above email, show that Shepherd Trucking has a policy to exclude spousal healthcare benefit coverage. In any event, I do not find that Shepherd's agreement with other employees are determinative of any agreement Mr. Shepherd or Shepherd Trucking had, or did not have, with Mr. Janco about payment for spousal healthcare benefit premiums.
22. As the applicant, it is up to Shepherd Trucking to prove that it had an agreement with Mr. Janco for payment of Ms. Janco's monthly premiums. On balance, I find Shepherd Trucking has failed to prove that Mr. Janco agreed to pay for Ms. Janco's monthly premiums, the amount that would need to be paid, and when the payment was due. I dismiss Shepherd Trucking's claim for \$3,222.22 in monthly benefit premiums.
23. As Shepherd Trucking is not entitled to reimbursement of the monthly benefit premiums, it follows that it is also not entitled to payment of any interest. I dismiss Shepherd's claim for \$1,652.35 in contractual interest. Given my conclusion above, I do not need to address the issue of whether Shepherd Trucking's claims are out of time.
24. Under section 49 of the CRTA and tribunal rules, the CRT 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. As Shepherd Trucking was unsuccessful in this dispute, I dismiss its claim for CRT fees.



## **ORDER**

25. I dismiss Shepherd Trucking's claims, and this dispute.

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Sherelle Goodwin, Tribunal Member