



Civil Resolution Tribunal

Date Issued: August 13, 2020

File: SC-2019-008653

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Mayo v. Trustees of the Local 213 Electrical Workers' Pension Plan,*
2020 BCCRT 897

BETWEEN:

RICHARD MAYO

APPLICANT

AND:

TRUSTEES OF THE LOCAL 213 ELECTRICAL WORKERS' PENSION
PLAN and TRUSTEES OF THE LOCAL 213 ELECTRICAL WORKERS'
WELFARE PLAN

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about coverage for dental benefits.

2. The applicant, Richard Mayo, says the respondent, Trustees of the Local 213 Electrical Workers' Welfare Plan (Welfare Trustees), failed to provide him with full dental benefits, pursuant to the welfare plan agreement documents. Mr. Mayo seeks \$1,735 for 2017 dental benefits and \$56 for 2018 dental benefits. The Welfare Trustees say Mr. Mayo already received more dental benefits than he was actually entitled to, and that he is not entitled to any additional benefits for 2017 or 2018.
3. I discuss the role of the other respondent, Trustees of the Local 213 Electrical Workers' Pension Plan (Pension Trustees), below.
4. Mr. Mayo is self-represented. The respondents are represented by the Welfare Trustees' Chairman.

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 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 CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary.
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. In resolving this dispute the CRT may make one or more of the following orders, where permitted by section 118 of the CRTA:
 - a. Order a party to do or stop doing something;
 - b. Order a party to pay money;
 - c. Order any other terms or conditions the tribunal considers appropriate.

Claims against the Pension Trustees

9. Initially, Mr. Mayo also had several claims against the Pension Trustees about what Mr. Mayo alleged was improper handling of the pension fund. In a preliminary decision dated May 13, 2020, a CRT member found that Mr. Mayo's claims against the Pension Trustees were outside the CRT's small claims jurisdiction and therefore refused to resolve those claims. The CRT member further found the claims against the Welfare Trustees were based in contract, and therefore were entitled to proceed through the CRT's decision process.
10. As a result, Mr. Mayo amended his Dispute Notice to remove the various claims against the Pension Trustees, but he did not remove the Pension Trustees as a respondent. However, as there are no remaining requested remedies as against the Pension Trustees, I dismiss any claims against them. I will deal only with Mr. Mayo's claims against the Welfare Trustees.

ISSUE

11. The issue in this dispute is whether the Welfare Trustees owe Mr. Mayo a total of \$1,791 in dental benefits for 2017 and 2018.

EVIDENCE AND ANALYSIS

12. In a civil claim such as this, the applicant Mr. Mayo 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.
13. Mr. Mayo says that the Welfare Trustees improperly pro-rated his dental coverage in 2017 and 2018. He says that he was entitled to the full \$2,500 in coverage for 2017, and an additional \$625 for 2018, based on his accumulated work hours from 2017.
14. In contrast, the Welfare Trustees say Mr. Mayo was entitled to \$624 in dental benefits for 2017 and \$416 in 2018, but in any event, was paid \$1,265 in 2017 and \$569 in 2018. The Welfare Trustees say the overpayments were made in error, but they do not seek repayment of those benefits.
15. The Welfare Trustees also argue that Mr. Mayo essentially claims for breach of trust, which is the inherent jurisdiction of the British Columbia Supreme Court, and therefore outside the CRT's jurisdiction. Mr. Mayo specifically says he is not claiming breach of trust, but rather compensation for benefits he is entitled to under the Welfare Trustees' agreement. I am satisfied this jurisdictional issue was adequately dealt with in the May 13, 2020 preliminary decision, and I accept that reasoning here. As such, I find the CRT has jurisdiction to hear Mr. Mayo's claims for entitlement to benefits.
16. In any event, the Welfare Trustees say they properly administered Mr. Mayo's dental benefits further to the agreement and rules, and that Mr. Mayo has not suffered a loss. I agree Mr. Mayo has not suffered a compensable loss, and I dismiss his claims. My reasons follow.
17. Prior to the events leading to this claim, Mr. Mayo retired from his position in 2016, but returned to work from July to October 2017. After Mr. Mayo retired in 2016, his benefits with the Welfare Trustees lapsed. As such, when he returned to work in

July 2017, he was treated as a new member under the welfare plan, and had to accumulate a specific number of “bank hours” before qualifying for benefits again. All of this is undisputed.

18. It is also undisputed that Mr. Mayo worked the following hours:

Month Worked	Hours Banked	Date Reported
July 2017	81.5	August 11, 2017
August 2017	150	September 15, 2017
September 2017	150	October 19, 2017
October 2017	186	November 9, 2017
October 2017	114.75	December 20, 2017

19. This dispute is essentially over when the “bank hours” accumulated, whether in the month worked (as alleged by Mr. Mayo), or in the month reported (as alleged by the Welfare Trustees).

20. According to the “Plan Text” which governs entitlement to benefits, once a member has accumulated 130 bank hours, they are entitled to benefits as of the first day of the next calendar month, and for each month thereafter that the member’s bank hours balance is above 130 (section 5.1(a)). Each month, a member’s worked hours will be added to the bank, and 130 hours will be deducted as coverage (section 5.1(b)). Once a member’s bank hours drop below 130, their benefits coverage ceases on the last day of the month in which the hours drop below 130 (section 7.1).

21. Section 1.1 of the Plan Text says that “Bank Hours” are defined as hours for which contributions on behalf of an employee are received by the Fund from an employer.

22. The Plan Text further states that dental benefits are capped at \$2,500 per family per calendar year and that detailed rules about entitlement to dental benefits will be communicated to members through a descriptive brochure.

23. The 2017 brochure, which Mr. Mayo undisputedly received, states that the Welfare Trustees have the ability to pro-rate coverage, and that members with less than 4 months of coverage in the calendar year will be pro-rated to 1/12 of the \$2,500

dental limit for each month of coverage. The Welfare Trustees also state this information has been available on the Plan's website since June 6, 2016, which Mr. Mayo does not dispute.

24. Basically, Mr. Mayo argues that, if I accept the hours accumulate the same month they are worked, then his entitlement to coverage would start September 1, 2017, as he exceeded 130 bank hours as of the end of August 2017. If coverage started as of September 1, 2017, based on the total hours worked until October 2017, Mr. Mayo would be entitled to 4 months' coverage in 2017 (so, the full \$2,500) and then coverage for January 2018 only (\$208), after which time his bank hours would have dropped below 130 and his coverage would cease. In contrast, if I accept the hours accumulate in the month they are reported to the plan, then Mr. Mayo's coverage would commence October 1, 2017, as determined by the Welfare Trustees. In that situation, Mr. Mayo would be entitled to 3 months' coverage in 2017 (\$625) and 2 months' coverage in 2018 (\$416) before his bank hours dropped below 130.
25. Based on the wording of the Plan Text, specifically sections 1.1 and 5.1, I find the bank hours are accumulated when they are reported to the Welfare Trustees, not when the hours are actually worked. I find this means that Mr. Mayo accumulated his 130 bank hours as of September 15, 2017, when his August 2017 hours were reported by his employer. Therefore, his dental coverage appropriately started the first day of the next month, October 1, 2017, and I find the Welfare Trustees properly administered dental benefits according to the plan agreement and documents. Even if I am wrong in that interpretation, I would still dismiss Mr. Mayo's claims in any event.
26. As noted above, Mr. Mayo says he was entitled to \$2,500 in full benefits for 2017 and \$625 for 2018, though he acknowledged if his benefits commenced September 1, 2017, based on his hours banked, his benefits would have ended by February 1, 2018. Despite this, Mr. Mayo still alleges he is entitled to \$625 for 2018 as he appears to argue a different calculation method (based on percentage of hours worked rather than months of coverage) should be used instead of the pro-ration

formula in the plan agreement and brochure. To the extent Mr. Mayo requests the application of a different calculation method, I find the parties are bound by the agreement in place, and that Mr. Mayo is not now entitled to argue for a different calculation method.

27. In any event, Mr. Mayo seeks the difference between what he says he was entitled to in each of 2017 and 2018 (\$2,500 and \$625, respectively), and what he was actually paid (\$1,265 and \$569, respectively). Although Mr. Mayo seeks \$1,735 in unpaid 2017 benefits, it is undisputed that the maximum family dental coverage limit for 2017 was \$2,500. Therefore, Mr. Mayo's claim for 2017 benefits exceeds the plan's limit by \$500. Mr. Mayo did not explain this discrepancy.
28. Despite alleging his entitlement to these amounts, Mr. Mayo has not argued that any dental claims submitted were rejected, or that he has had to pay out of pocket for any dental work. A letter from his dentist only says that Mr. Mayo delayed some treatment until his coverage took effect, and that other treatment, valued at \$238, was provided to Mr. Mayo in the interim, free of charge. There is no evidence Mr. Mayo required the use of more than the \$1,265 he was provided in coverage in 2017, or the \$569 he was provided in coverage for 2018. There is also no evidence Mr. Mayo suffered any loss as a result of delaying his dental treatment until his coverage started on October 1, 2017.
29. Therefore, I find Mr. Mayo has not shown he sustained any loss as a result of the Welfare Trustees' alleged incorrect calculation of his accumulated bank hours. So, I would have dismissed Mr. Mayo's claims for compensation whether or not I found the Welfare Trustees reasonably administered Mr. Mayo's dental benefits according to the plan agreement and documents.
30. To the extent Mr. Mayo argues for an order as to his general entitlement to the 2017 and 2018 dental coverage rather than for monetary compensation, that is declaratory relief. Declaratory relief is outside the CRT's small claims jurisdiction and so I could not make such an order in any event.

31. In summary, I find the Welfare Trustees' administered Mr. Mayo's dental benefits in accordance with the welfare plan's agreement and governing documents. I also find Mr. Mayo has failed to prove any monetary loss in relation to his dental benefits coverage. Given the above, I find Mr. Mayo's claims must be dismissed.
32. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As Mr. Mayo was not successful, I find that he is not entitled to reimbursement of his paid tribunal fees or dispute-related expenses. The Welfare Trustees claim \$676.79 for legal research related to the claim, but did not provide any invoice in support. Therefore, I decline to order reimbursement of that amount.

ORDER

33. I order Mr. Mayo's claims, the Welfare Trustees' claim for reimbursement of dispute-related expenses, and this dispute dismissed.

Andrea Ritchie, Vice Chair