



Civil Resolution Tribunal

Date Issued: March 23, 2021

File: SC-2020-008559

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Price v. Manke*, 2021 BCCRT 321

BETWEEN:

JON PRICE

APPLICANT

AND:

DALLAS MANKE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This dispute is about financial transactions between former romantic partners. The applicant, Jon Price, says that he loaned money to the respondent, Dallas Manke, during the course of their relationship. Mr. Price says that Ms. Manke failed to repay

some of the money and asks for an order that she pay him \$3,605. Ms. Manke says that the transactions were not loans and denies that she owes Mr. Price any money.

2. The parties are self-represented.

JURISDICTION AND PROCEDURE

3. 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). Section 2 of the CRTA states that 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 the dispute's parties that will likely continue after the CRT process has ended.
4. Section 39 of the CRTA says 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 in the interests of justice.
5. Section 42 of the CRTA says 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.
6. 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.
7. While the parties disagree about whether they lived together at any point during their 4-year relationship, there is no dispute that they did not live together for a continuous period of at least 2 years. Therefore, the parties were not spouses as contemplated

by the *Family Law Act* (FLA) and this dispute does not involve family property or debt under section 92(a) of the FLA. I find that this dispute falls under the CRT's small claims jurisdiction over debt or damages as set out in section 118(1) of the CRTA.

ISSUES

8. The issues in this dispute are:
 - a. Whether any of Mr. Price's claims are statute-barred under the *Limitation Act*, and
 - b. Whether Ms. Manke owes Mr. Price the claimed \$3,605.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this, an applicant must prove their claims on a balance of probabilities. Both parties provided evidence and submissions. I have read all of this information, but will refer to only what is relevant and necessary to provide context to my decision.
10. Mr. Price says that, during his relationship with Ms. Manke, he would sometimes pay for food but that he did not otherwise contribute to her personal living expenses. According to Mr. Price, he provided Ms. Manke with sporadic loans for general financial assistance or specific items such as moving expenses. He says that Ms. Manke made periodic repayments by e-transfer, but that she did not fully repay him for 15 specific transactions. Mr. Price says that Ms. Manke has acknowledged the debt and promised to repay it, but has not done so.
11. Ms. Manke admits that there were financial transactions between herself and Mr. Price, but says that these were "to take care of day to day and monthly expenses" rather than loans. She says that Mr. Price did not tell her that the funds were loans until several weeks after the relationship ended. In her view, a loan requires "prior mutual agreement on terms and condition, a contract written up and signed by both parties as agreement on and commitment to the terms". As there was no such

agreement in this case, Ms. Manke says there was no loan and she does not owe Mr. Price any money. Ms. Manke does not say that the money was a gift, and she did not admit that the 15 transactions listed by Mr. Price occurred on the dates or in the amounts he says.

12. Mr. Price's claims concern 4 loans he said he made to Ms. Manke in 2017, 7 loans in 2019 and 4 loans in 2020. A CRT case manager raised with the parties the issue of whether any of these claims would be outside of the applicable limitation period. The parties did not provide specific submissions on this issue, but Mr. Price did say that Ms. Manke acknowledged the debt at some point in 2020.
13. A limitation period is a period within which a person may bring a claim. If that period expires, the right to bring the claim ends, even if the claim would have been successful. The current version of the *Limitation Act*, which came into effect on June 1, 2013, contains a 2-year limitation period.
14. Mr. Price submitted his application to the CRT and the Dispute Notice was issued on November 5, 2020. Therefore, any claims that arose before November 5, 2018 are statute-barred unless Mr. Price can establish that Ms. Manke acknowledged the debt in writing before the expiry of the limitation period. Section 24 of the *Limitation Act* allows a limitation period to be extended in these circumstances.
15. The evidence contains a text message in which Ms. Manke proposes a payment plan "to pay what I owe you". The message did not mention a specific amount of debt or the dates of the transactions, and the text does not contain any form of signature. I am not satisfied that the text message meets the requirements for acknowledgment set out in the *Electronic Transactions Act* or in section 24(6) of the *Limitation Act*. More significantly, although the date of this message is not visible, it refers to the end of the parties' relationship, which occurred at some point in 2020. Therefore, this text message could not be a legally binding acknowledgment of the 2017 claims as the associated limitation period already would have expired in 2019.

16. As the limitation period expired before he commenced this dispute, I find that Mr. Price's claims in respect of 4 loans that he says he made to Ms. Manke in 2017 are statute-barred under the *Limitation Act* and he no longer has the right to pursue them. The claims about the remaining 11 transactions from 2019 and 2020 totalling \$3,150 were within the 2-year limitation period and I will consider them below.
17. A formal, signed contract as Ms. Manke describes is not required to create a binding agreement. However, an agreement about a loan requires *consensus ad idem* (a meeting of the minds) between the parties to the loan about its terms, such as the rate of interest and terms of repayment (see, for example, *Callaghan v. Jack et al*, 2004 BCPC 85 at paragraph 92).
18. The parties' financial dealings appear to have been largely verbal in nature, although some were discussed in text messages. In addition to the text message in which Ms. Manke acknowledges that she owes Mr. Price some money, the evidence contains additional text messages that suggest Ms. Manke was asking Mr. Price to buy things for her. One undated exchange of messages mentions having cash to give him for cigarettes, and another talks about sending an e-transfer to repay him for groceries. A final February 15 exchange, which does not display a year, talks about Mr. Price picking up sandwiches, with no discussion of repayment.
19. These messages are consistent with Ms. Manke's evidence that money changed hands for daily expenses, and show that some of those transactions were loans that Ms. Manke intended to repay quickly. The messages do not confirm that all of the parties' transactions, including those listed by Mr. Price, were loans. I do not find that the available evidence establishes the necessary meeting of the minds to form loan agreements for each transaction.
20. Even if the transactions were loans, I find that the amounts loaned have not been proven. The evidence also does not establish whether or not any amounts were repaid, either before or after the 2020 text message in which Ms. Manke acknowledged an unspecified debt. I acknowledge Mr. Price's submission that he had difficulty obtaining his bank records. However, I find that the evidence before me does

not establish that the financial transactions between the parties in 2019 and 2020, whatever their nature, amounted to the \$3,150 he claims.

21. Despite Ms. Manke's text message stating that she owed Mr. Price some money, I find that he has not established that the listed transactions were loans or, if so, the amount owing. Keeping in mind that Mr. Price bears the burden of proof, I dismiss his claim.
22. 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. As Mr. Price was not successful, I dismiss his claim for reimbursement of CRT fees.

ORDER

23. I dismiss Mr. Price's claims and this dispute.

Lynn Scrivener, Tribunal Member