



Civil Resolution Tribunal

Date Issued: July 27, 2021

File: SC-2021-001108

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Dhaliwal v. Shuembom*, 2021 BCCRT 819

BETWEEN:

RAKINDER DHALIWAL

APPLICANT

AND:

EUGENE SHUEMBOM

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This dispute is about loan repayment. The applicant, Rakinder Dhaliwal, says that she had an agreement with the respondent, Eugene Shuembom, about the

repayment of money she had loaned to him. However, Ms. Dhaliwal says that Mr. Shuembom did not make all the payments required by the agreement. She asks for an order that Mr. Shuembom pay her \$1,600 plus contractual interest. Mr. Shuembom admits that he owes Ms. Dhaliwal money and that he missed some payments required by their agreement, but denies that the outstanding amount is \$1,600 or that he should pay interest.

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.

ISSUES

7. The issues in this dispute are:
 - a. Whether Ms. Shuembom owes Ms. Dhaliwal the \$1,600 she claims, and
 - b. Whether Mr. Shuembom must pay Ms. Dhaliwal contractual interest.

EVIDENCE AND ANALYSIS

8. In a civil proceeding like this one, an applicant must prove their claims on a balance of probabilities. I have read all the parties' submissions but refer only to the evidence and argument that I find relevant and necessary to provide context for my decision.
9. The parties agree that Ms. Dhaliwal provided Mr. Shuembom with loans of \$1,500 and \$750 through e-transfers in July of 2020. Mr. Shuembom did not repay the loans as Ms. Dhaliwal expected, although he did make two payments totalling \$750 in November of 2020. In a previous claim with the CRT, the parties negotiated a repayment agreement for the then-outstanding amount of \$1,600 on specified dates between December 2020 and February 2021.
10. Mr. Shuembom did not make the payments required by the repayment agreement and Ms. Dhaliwal commenced this dispute. In the Dispute Notice, Ms. Dhaliwal asked for repayment of the entire \$1,600 contemplated by the parties' repayment agreement. However, in their submissions, the parties agree that Mr. Shuembom has since made two payments totalling \$750. These payments are confirmed by e-transfer receipts.

11. The evidence before me establishes that, of the \$1,600 covered by the repayment agreement, Mr. Shuembom has repaid a total of \$750. This leaves an outstanding balance of \$850, and I order Mr. Shuembom to pay Ms. Dhaliwal this amount.
12. Although a copy of the repayment agreement is not in evidence, the parties agree that a term of that agreement was that, if the payments were not made on time, there would be interest of “12% or the current interest rates on lending (whichever is higher) on the outstanding balance”. The repayment agreement appears to be silent about whether the interest rate is monthly or annual.
13. Mr. Shuembom says that it is not right for Ms. Dhaliwal to claim interest given that they did not have a discussion about interest when the loan was made. However, he does not dispute that he agreed to pay interest in the repayment agreement, and I find that agreement is binding upon him. I find that Ms. Dhaliwal is entitled to contractual interest.
14. Section 4 of the federal *Interest Act* says that, when an interest rate in a contract is expressed as a rate or percentage for any period less than 1 year, and if the contract does not contain an express statement of the equivalent yearly interest rate or percentage, the maximum allowable interest rate is 5% per year. I find that the repayment agreement does not contain an express statement of the annual interest rate that would apply. Therefore, under the *Interest Act*, the applicable interest rate is 5% per year.
15. Interest began to accrue on January 1, 2021, being the day after the first missed payment date set out in the parties’ repayment agreement. As Mr. Shuembom subsequently made payments, the interest applied to the decreasing amount of the outstanding balance. I find that Ms. Dhaliwal is entitled to \$30.28 in contractual interest, broken down as follows:
 - a. \$9.21 on the balance of \$1,600 between January 1 and February 12, 2021,
 - b. \$9.19 on the balance of \$1,100 (after taking into account the \$500 payment made on February 13) between February 13 and April 15, 2021, and

- c. \$11.88 on the balance of \$850 (after taking into account the \$250 payment made on April 16) between April 16 and July 27, 2021.
16. The parties' agreement also contemplated that, if Ms. Dhaliwal had to file a dispute to obtain an order for payment under the repayment agreement, Mr. Shuembom would be responsible for her CRT fees. In addition, under section 49 of the CRTA and CRT rules, the CRT generally will order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I find that Ms. Dhaliwal is entitled to reimbursement of \$125 in CRT fees.

ORDERS

17. Within 30 days of the date of this decision, I order Mr. Shuembom to pay Ms. Dhaliwal a total of \$1,005.28, broken down as follows:
 - a. \$850 in debt under the parties' repayment agreement,
 - b. \$30.28 in 5% annual contractual interest, and
 - c. \$125 in CRT fees.
18. Ms. Dhaliwal is also entitled to post-judgment interest, as applicable.
19. 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 Province of British Columbia has enacted a provision under the *COVID-19 Related Measures Act* which says that statutory decision makers, like the CRT, may waive, extend or suspend mandatory time periods. This provision is expected to be in effect until 90 days after the state of emergency declared on March 18, 2020 ends, but the Province may shorten or extend the 90-day timeline at any time. 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.

20. 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.

Lynn Scrivener, Tribunal Member