



Civil Resolution Tribunal

Date Issued: July 30, 2021

File: SC-2021-000734

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *664732 BC Ltd. v. Brown*, 2021 BCCRT 832

BETWEEN:

664732 BC LTD.

APPLICANT

AND:

PHILIP BROWN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about an unpaid payday loan. Cash Advantage, 664732 BC Ltd., does business as Cash Advantage (Cash Advantage) and under a payday loan agreement loaned money to the respondent, Philip Brown. Cash Advantage claims \$897.50, broken down as follows: \$850 for unpaid principal, \$127.50 for a loan fee, and \$20

for an NSF fee, less a \$100 credit. It also claims contractual interest at the yearly rate of 30%.

2. Mr. Brown agrees he owes the claimed amount of \$897.50 and contractual interest. He disputes liability for any dispute-related fees or expenses, as discussed below.
3. An employee or principal represents Cash Advantage. Mr. Brown represents himself.
4. For the reasons that follow, I find Cash Advantage is entitled to most of its claims. I order Mr. Brown to pay the amounts set out below.

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). 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.
6. 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.
7. 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.

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 what Mr. Brown owes Cash Advantage under the terms of their written payday loan agreement.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Cash Advantage must prove its claims on a balance of probabilities. I have read all the parties' submissions but refer only to the evidence and arguments that I find relevant to provide context for my decision. Mr. Brown provided submissions but not evidence.
11. The facts are largely undisputed. Mr. Brown entered into a written payday loan agreement dated November 8, 2019. Under its terms, Cash Advantage loaned \$850 as principal and charged a loan fee of \$127. Mr. Brown agreed to pay interest on the principal at the yearly rate of 30%. He also agreed to pay an NSF charge of \$20 for rejected cheques or pre-authorized debit charges. All amounts owing were due on November 22, 2019.
12. Mr. Brown made a single payment of \$100 on January 14, 2020. Debt collection practices and payday loans are regulated under the *Business Practices and Consumer Protection Act* (BPCPA) and the *Payday Loans Regulation*. Under section 112.07 of the BPCPA, Cash Advantage was obligated to apply the payment first to any interest accrued or accruing on the loan amount, then to any permissible charges under the BPCPA, then subsequently to the loan principal. I find that Cash Advantage could have claimed \$997.50 for a combination of principal and fees and reduced its contractual interest claim by \$100, but did not do so. I find Cash Advantage is limited to the claims in the Dispute Notice, which state that Mr. Brown only owes \$897.50 for principal and fees. Mr. Brown agrees this amount is owing, so I order him to pay it.

13. I next calculate contractual interest. I find that under the parties' agreement, Mr. Brown agreed to pay 30% yearly interest on the principal of \$850, starting from the payment due date of November 22, 2019. I find that under the contract terms, the principal does not include any fees or accrued contractual interest. I find Mr. Brown's payment reduced the total interest payable by \$100. I find the total interest still owing, calculated to the date of this decision, equals \$330.36.
14. Mr. Brown says Cash Advantage contacted others about his debt without his permission and at one point the police became involved. The parties provided conflicting stories about this. Ultimately, I do not find these allegations relevant to this dispute and make no findings about it. Mr. Brown claims no remedies for these allegations and did not file a counterclaim. In any event, I do not have jurisdiction to award damages for prohibited debt collection practices under section 171 of the BPCPA.
15. 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. Mr. Brown disagrees that he should reimburse any such fees or expenses. He submits this dispute is unnecessary and inhumane in light of the current pandemic. I accept the pandemic has caused Mr. Brown hardship. However, that does not affect Cash Advantage's right to be reimbursed for the fees it had to incur to pursue an order for the amount owing.
16. Given the above, I choose to follow the general rule and find Cash Advantage is entitled to reimbursement of \$125 in CRT fees. Cash Advantage also claimed \$10.82 for registered mail service fees as a dispute-related expense. I decline to award this amount because it was unsupported by any evidence, such as a receipt.

ORDERS

17. Within 14 days of the date of this order, I order Mr. Brown to pay Cash Advantage a total of \$1,352.86, broken down as follows:

- a. \$897.50 in debt,
- b. \$330.36 in contractual interest, and
- c. \$125 in CRT fees.

18. Cash Advantage is entitled to post-judgment interest, as applicable.

19. I dismiss Cash Advantage's remaining claims.

20. 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 in effect until 90 days after June 30, 2021, which is the date of the end of the state of emergency declared on March 18, 2020, 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.

21. 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.

David Jiang, Tribunal Member