



Civil Resolution Tribunal

Date Issued: August 6, 2021

File: SC-2021-002011

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Amaranth Financial Services Inc. dba Speedy Cash v. Piercey*,
2021 BCCRT 860

B E T W E E N :

AMARANTH FINANCIAL SERVICES INC. DBA SPEEDY CASH

APPLICANT

A N D :

TODD PIERCEY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about an unpaid payday loan. The applicant, Amaranth Financial Services Inc. dba Speedy Cash (Speedy Cash), seeks payment of \$1,399.31 from the respondent Todd Piercey. This is comprised of \$1,199.40 as principal, \$179.91

for a loan fee, and \$20 for a dishonoured payment fee. Speedy Cash also seeks 30% annual contractual interest on the principal.

2. Mr. Piercey does not dispute Speedy Cash's claims. However, he says he is in the process of filing for either bankruptcy or a consumer proposal.
3. An employee or principal represents Speedy Cash. Mr. Piercey represents himself.
4. For the reasons that follow, I find Speedy Cash has proven most of their claims. I order Mr. Piercey 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 whether I should order Mr. Piercey to pay Speedy Cash the amount claimed under the terms of their written payday loan agreement.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Speedy Cash as the applicant must prove their 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. Piercey provided submissions but chose not to provide evidence despite having the opportunity to do so.
11. I begin with the undisputed facts. The parties entered into a written payday loan agreement dated November 2, 2019. Under its terms, Speedy Cash loaned \$1,199.40 as principal. Mr. Piercey also agreed to pay a "finance charge" of \$179.91 plus \$20 as a service charge for dishonoured cheques or pre-authorized debit transactions.
12. Under the agreement, Mr. Piercey had to repay the principal plus the finance charge on November 8, 2019. It is undisputed that he did not do so. A loan payment schedule shows Speedy Cash added a \$20 service charge on the due date.
13. Debt collection practices and payday loans are regulated under the *Business Practices and Consumer Protection Act* (BPCPA) and the *Payday Loans Regulation*. I find Speedy Cash charged permissible amounts and Mr. Piercey does not allege otherwise.
14. As noted above, Mr. Piercey says he is in the process of filing for either bankruptcy or a consumer proposal. Under sections 69 through 69.3 of the *Bankruptcy and Insolvency Act*, the bankruptcy or filing of a notice of intention or proposal by an

insolvent person results in a stay or proceedings against that person and their property. However, there is no evidence before me that Mr. Piercey has actually filed either a notice of intention or proposal, or is bankrupt. I therefore find that no stay of proceedings applies.

15. The amounts sought are undisputed and supported by the written agreement. I therefore order Mr. Piercey to pay Speedy Cash \$1,399.31 for a combination of principal, the loan fee, and a dishonoured payment fee, as outlined above.
16. This leaves contractual interest. Section 4 of the federal *Interest Act* says that when an interest rate is expressed as a rate for a period of less than a year, and the contract does not say the equivalent annual percentage rate, the maximum allowable interest is 5% per year. Under the written agreement, Mr. Piercey agreed to pay late interest on the principal at the monthly rate of 2.5% per month. In this dispute, Speedy Cash claims interest at the equivalent yearly rate of 30%. However, the parties' agreement did not state an annual or yearly rate. So, I find that Speedy Cash is only entitled to contractual interest at the yearly rate of 5% per year, calculated from the repayment date of November 8, 2019. This equals \$104.66.
17. 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. I see no reason in this case not to follow that general rule. As Speedy Cash was substantially successful, I find it is entitled to reimbursement of \$125 in CRT fees. The parties did not claim for any dispute-related expenses, so I order none.

ORDERS

18. Within 14 days of the date of this order, I order Mr. Piercey to pay Speedy Cash a total of \$1,628.97, broken down as follows:
 - a. \$1,399.31 in debt,
 - b. \$104.66 in 5% annual contractual interest on principal of \$1,199.40, and

c. \$125 in CRT fees.

19. Speedy Cash is entitled to post-judgment interest, as applicable.
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