



Civil Resolution Tribunal

Date Issued: August 20, 2021

File: SC-2020-009212

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Li v. Moretto*, 2021 BCCRT 913

B E T W E E N :

ALSTON LI

APPLICANT

A N D :

ANTHONY MORETTO

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The applicant, Alston Li, says that he was the victim of a scam involving the respondent, Anthony Moretto. It is undisputed that another person, CL, defrauded Mr. Li out of \$2,000. Mr. Li says that Mr. Moretto participated in the fraud by accepting \$2,000 from Mr. Li on CL's behalf. Mr. Li claims a return of this \$2,000 from Mr. Moretto. CL is not a party to this dispute.

2. Mr. Moretto says that he accepted the \$2,000 from Mr. Li as a favour to a former friend, SH. He says that he sent the \$2,000 to SH a few days after he received it from Mr. Li. He says that he did not know CL and did not know that the money was part of a scam until his bank contacted him several days later. Mr. Moretto says that CL alone owes Mr. Li the \$2,000 and asks that I dismiss Mr. Li's claims against him.
3. The parties are each self-represented.

JURISDICTION AND PROCEDURE

4. 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.
5. 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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
6. 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.

7. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to pay money or to do or stop doing something. The tribunal's order may include any terms or conditions the CRT considers appropriate.
8. After the parties made their submissions, Mr. Moretto emailed CRT staff additional submissions, namely that an email Mr. Li provided as evidence was forged. CRT staff forwarded those submissions to me. I decided not to ask Mr. Li for further submissions for 3 reasons. First, it would delay the resolution of this dispute. Second, Mr. Moretto's allegation that the email in question was forged is already in evidence, so the new submissions added nothing new. Third, my conclusion would be the same whether the email was authentic or not.

ISSUE

9. The issue in this dispute is whether Mr. Moretto must pay Mr. Li \$2,000.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, Mr. Li as the applicant must prove his case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
11. Neither party provided much evidence in this dispute. Most of the background set out below is from a Residential Tenancy Branch (RTB) hearing that both parties participated in. Mr. Li provided a copy of the RTB's written decision, which summarized both parties' oral evidence. While this is hearsay evidence, the CRT can accept hearsay evidence. Given that the RTB adjudicator had a duty to accurately summarize the parties' evidence and neither party disputes its accuracy, I accept the RTB decision as evidence.
12. I start with Mr. Li's account of what happened. He says that on May 18, 2019, he agreed to rent a residential unit to CL. The tenancy was to start on August 1, 2019. CL sent Mr. Li a cheque for \$9,000, which was for a security deposit plus several

months' rent. Mr. Li deposited the check on July 1, 2019. On July 5, 2019, CL told Mr. Li that they wished to cancel the tenancy agreement. Mr. Li agreed to refund CL's money via email money transfer. CL told Mr. Li to send the money to Mr. Moretto. He sent Mr. Moretto \$1,000 on July 2 and another \$1,000 on July 3 before finding out that CL's cheque had bounced.

13. Mr. Moretto does not specifically dispute any of those details, but he denies knowing CL or knowingly participating in any fraud. He says that SH asked him to accept the \$2,000 from Mr. Li and then send it to SH in Bitcoin because SH did not have a bank account. He says that he agreed to help SH. He says he thought it was for SH to buy a plane ticket. He says he sent the \$2,000 in Bitcoin to SH after receiving it, and then got a call from his bank that the funds were part of a scam.
14. Mr. Li made an RTB claim against CL and Mr. Moretto. CL did not attend the RTB hearing. The RTB ordered CL to repay \$350, which it found was a security deposit, but dismissed the rest of Mr. Li's claim against CL because it was outside the RTB's jurisdiction. The RTB also dismissed Mr. Li's claim against Mr. Moretto because it was outside the RTB's jurisdiction.
15. Mr. Li says that even though CL defrauded him, Mr. Moretto should have to repay the \$2,000 because he accepted the money on CL's behalf. Mr. Li says that Mr. Moretto was a party to the fraud. Mr. Li provided an email exchange that he says proves Mr. Moretto was involved. As mentioned above, Mr. Moretto disputes that these emails are authentic. I note that Mr. Moretto's email address in this exchange misspells Mr. Moretto's name. The email address on Mr. Li's email money transfers spelled Mr. Moretto's name correctly. So, there is some reason to doubt the authenticity of the emails.
16. However, even if they are authentic, I find that these emails do not prove that Mr. Moretto was a party to the fraud. In the emails, Mr. Moretto says that he was expecting \$2,000 from Mr. Li for an "airport pickup and reservations" for CL. This is very different from the scam that Mr. Li alleges in this dispute, which was about CL

cancelling a residential tenancy and asking for a \$9,000 refund. Mr. Li does not explain this discrepancy.

17. For his part, Mr. Moretto says that he had never even heard of CL until Mr. Li started legal proceedings. He says that he did not gain financially because he passed the money along to SH. I acknowledge that there are some reasons to doubt Mr. Moretto's account of what happened. He did not provide evidence to corroborate his account, such as proof that he transferred the \$2,000 via Bitcoin or written correspondence with SH. I also find that his description of why he accepted the \$2,000 in the first place is somewhat suspicious.
18. That said, it is Mr. Li who bears the burden of proving his claims. Based on the evidence he provided, I am left with considerable doubt about what actually happened. It is certainly possible that Mr. Moretto was involved in CL's scam, but I find that the evidence does not prove it on a balance of probabilities.
19. For these reasons, I dismiss Mr. Li's claims. Nothing in this dispute prevents Mr. Li from making a CRT or court claim against CL.
20. 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. Li was unsuccessful, so I dismiss his claim for CRT fees and dispute-related expenses. Mr. Moretto did not claim any dispute-related expenses or pay any CRT fees.

ORDER

21. I dismiss Mr. Li's claims, and this dispute.

Eric Regehr, Tribunal Member