



# Civil Resolution Tribunal

Date Issued: September 16, 2021

File: SC-2021-003078

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *664732 BC Ltd. v. Ryan*, 2021 BCCRT 1005

BETWEEN:

664732 BC LTD.

**APPLICANT**

AND:

JEFFERY RYAN

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Roy Ho

## INTRODUCTION

1. This dispute is about an unpaid payday loan. The applicant, 664732 BC Ltd. (664732), seeks payment of \$1,745 from the respondent, Jeffery Ryan. This is comprised of \$1,500 as principal, \$225 loan fee, and \$20 for a non-sufficient funds (NSF) charge. 664732 also seeks 30% annual contractual interest on the principal.

2. Mr. Ryan does not dispute 664732's claims. However, he says he should not have to pay because he had been paying high interest payments to 664732 on other loans for some time. I infer Mr. Ryan to mean that his debt should be set-off against his historical interest payments.
3. 664732 is represented by a business contact. Mr. Ryan represents himself.
4. For the reasons that follow, I find 664732 has proven its claims. I order Mr. Ryan 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 is whether Mr. Ryan must pay 664732 the amount claimed under the terms of their written payday loan agreement.

## **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, the applicant 664732 must prove its 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 to provide context for my decision.
11. I begin with the undisputed facts. The parties entered into a written payday loan agreement dated February 18, 2021. Under its terms, 664732 loaned Mr. Ryan \$1,500 as principal. Mr. Ryan also agreed to pay a "Cost of Credit" of \$225, a \$20 service charge for NSF cheques or pre-authorized debit transactions, and 30% annual contractual interest on the outstanding loan.
12. Under the agreement, Mr. Ryan had to repay the principal plus the cost of credit charge on April 1, 2021. It is undisputed that he did not do so. While 664732 did not provide evidence of an NSF cheque or pre-authorized debit transaction made by Mr. Ryan, Mr. Ryan does not dispute the total amount claimed by 664732. For this reason, I allow 664732's \$20 NSF claim.
13. Debt collection practices and payday loans are regulated under the *Business Practices and Consumer Protection Act* (BPCPA) and *Payday Loans Regulation*. I find 664732 charged permissible amounts under the BPCPA and *Payday Loans Regulation*, which is undisputed.
14. As noted above, I infer Mr. Ryan seeks a set-off against the debt. A set-off is a right existing between parties that owe each other money where their respective debts are

mutually deducted, leaving the applicant to recover only the residue: see *Black's law Dictionary*, revised 4<sup>th</sup> edition, at paragraph 1538. The party seeking the set-off has the burden of proof that they are entitled to one. However, Mr. Ryan has provided no submissions or any evidence why he should be entitled to a set-off. In any event, I find any interest payments that Mr. Ryan may have made to 664732 in the past are separate and independent of this agreement. So, for these reasons, I find Mr. Ryan is not entitled to a set-off on the claimed debt.

15. The amounts sought by 664732 are undisputed and supported by the written agreement. I therefore order Mr. Ryan to pay 664732 \$1,745 for the principal loan, the cost of credit charge, and the NSF charge, as outlined above.
16. This leaves contractual interest. As set out in the loan agreement, Mr. Ryan agreed to 30% annual contractual interest. So, I find 664732 is entitled to 30% annual contractual interest on the \$1,500 principal from February 18, 2021 when the loan was funded to the date of this decision. This interest equals \$260.14.
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 664732 was 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. Ryan to pay 664732 a total of \$1,885.14, broken down as follows:
  - a. \$1,500 in debt,
  - b. \$260.14 in contractual interest at 30% annually, and
  - c. \$125 in CRT fees.
19. 664732 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.

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Roy Ho, Tribunal Member