



Civil Resolution Tribunal

Date Issued: October 21, 2021

File: SC-2021-003299

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Howell v. Bond*, 2021 BCCRT 1116

BETWEEN:

NICOLE HOWELL

APPLICANT

AND:

JEFFREY BOND

RESPONDENT

AND:

NICOLE HOWELL

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Chad McCarthy

INTRODUCTION

1. This dispute is about whether former roommates owe each other money. The applicant, and respondent by counterclaim, Nicole Howell, lived with the respondent, and applicant by counterclaim, Jeffrey Bond. Ms. Howell initially claimed \$2,600 for a pet and damage deposit that Mr. Bond failed to return, which the parties agree Mr. Bond has since repaid and so that claim is now resolved.
2. Ms. Howell claims a total of \$499.54 for Mr. Bond's unpaid share of utility bills and a bed that she says Mr. Bond agreed to purchase from her. In addition, she claims \$1,796.09 in increased mortgage interest costs because she says Mr. Bond's failure to refund the pet and damage deposit caused her to defer 2 mortgage payments.
3. Mr. Bond denies owing anything for the claimed utilities and says that the bed is available for Ms. Bond to pick up. Mr. Bond filed a counterclaim for \$850 in lost wages and travel expenses to attend court proceedings involving both parties. Ms. Howell denies owing anything.
4. The parties are each self-represented in this dispute.

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.
9. In an agreed statement of facts in evidence, the parties confirm they were in a romantic relationship and lived together for approximately 1 month, but they were not in a spousal relationship. I find that the parties were not spouses as that term is defined in section 3 of the *Family Law Act* (FLA). So, I find the CRT may hear this dispute under CRTA section 118 as claims for debt or damages, rather than it being exclusively for the British Columbia Supreme Court to decide.

ISSUES

- a. The issues in this dispute are:
 - b. Did Mr. Bond agree to pay Ms. Howell \$275 for a bed and \$224.54 for utilities, and does he owe her those amounts?
 - c. Is Mr. Bond responsible for Ms. Howell owing \$1,796.09 in additional mortgage interest because he failed to promptly reimburse the pet and damage deposit?
 - d. Is Ms. Howell responsible for Mr. Bond losing \$850 in wages and travel expenses?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Ms. Howell must prove her claims on a balance of probabilities (meaning “more likely than not”). Mr. Bond must prove his counterclaims to the same standard. 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.

Does Mr. Bond owe \$275 for a bed and \$224.54 for utilities?

11. The undisputed evidence is that the parties equally shared utility bill payments at their rented accommodations. Ms. Howell submitted an internet bill for \$231.22 and an electricity bill for \$146.74, which Mr. Bond undisputedly did not help to pay. Ms. Howell says that Mr. Bond owes her for half the amount of each bill, which she says is \$151.17 for internet and \$73.37 for electricity. However, I find that half of the \$231.22 internet bill equals \$115.61, not \$151.17.

12. Mr. Bond does not deny that he and Ms. Howell agreed he would pay for half of the utility costs, or that he failed to pay Ms. Howell for his share of the 2 submitted utility bills. He says that he has lost much more than the unpaid utility amount in lost wages and travel expenses, which are the subject of his counterclaim that I address below.

13. On the evidence before me, I find Mr. Bond failed to pay his share of the 2 utility bills as agreed. So, I find he owes Ms. Howell \$73.37 for half of the electricity bill and \$115.61 for half of the internet bill. I allow Ms. Howell’s claim for those amounts.

14. Turning to the bed, the parties do not dispute that they jointly acquired a bed during the time they lived together. The bed remained with Mr. Bond after Ms. Howell moved out. Text messages in evidence show that on December 29, 2020, Ms. Howell requested \$275 for Mr. Bond to purchase her share of the bed and become its full owner. Mr. Bond responded “\$275 sounds good”. I find Mr. Bond accepted Ms. Howell’s offer, and that the 2 had a binding contract for Mr. Bond to pay \$275 for Ms. Howell’s share of the bed. It is undisputed that Mr. Bond did not pay \$275, and that he retains possession of the bed.

15. In his submissions, Mr. Bond said Ms. Howell “can come get the bed, anytime she wants.” However, according to the evidence before me, Ms. Howell has not accepted Mr. Bond’s proposal that she repossess the bed in return for forgiving the \$275 he owes her for it. So, I find Ms. Howell is not required to take possession of the bed or to forgive Mr. Bond’s debt for it. I allow Ms. Howell’s claim for \$275 for her share of the bed. So overall, Mr. Bond owes Ms. Howell \$463.98 for the bed and unpaid utilities.

Is Mr. Bond responsible for Ms. Howell’s increased mortgage interest for failing to promptly return the pet and damage deposit?

16. It is undisputed that Ms. Howell had a mortgage on a property that she did not reside in. Ms. Howell says she moved in with her parents after leaving the parties’ shared accommodations, so did not need to pay another damage deposit. She says that because Mr. Bond did not promptly pay the \$2,600 combined pet and damage deposit to her when she moved out, she was forced to defer 2 mortgage payments. She claims \$1,796.09 in additional interest over the life of the mortgage because of these payment deferrals, which she says are Mr. Bond’s fault.

17. I find there was no express or implied agreement between the parties about timelines for returning the deposit, so Mr. Bond did not breach their agreement by not immediately reimbursing it. I considered whether Ms. Howell alleges an economic tort (civil wrong), such as causing loss by unlawful means, also known as unlawful interference with economic relations. However, that tort is for losses resulting from a party’s unlawful act against a third party, and here Mr. Bond’s act involved a payment to Ms. Howell, not to a third party (see *A.I. Enterprises Ltd. v. Bram Enterprises Ltd.*, 2014 SCC 12 at paragraph 23). Further, I find Mr. Bond is not liable for the tort of inducing breach of contract. The evidence does not show that Ms. Howell broke her mortgage agreement, or that Mr. Bond knew his failure to pay immediately would allegedly cause her to break that agreement (see *Bram* at paragraph 93).

18. I also considered whether Mr. Bond’s payment timing was negligent, which requires Mr. Bond to owe a duty of care to Ms. Howell (see *Mustapha v. Culligan of Canada*

Ltd., 2008 SCC 27 at paragraph 3). I find the evidence does not show that Mr. Bond knew or should have known about the timing and amount of Ms. Howell's mortgage payments, or that she lacked the funds to cover those payments without the deposit refund. I find the parties' relationship as tenants or roommates was too remote to create a duty for Mr. Bond to meet an unspecified payment deadline to accommodate Ms. Howell's other debts, including in this case where Ms. Howell had not arranged her mortgage finances to accommodate the absence of the deposit money.

19. In particular, Ms. Howell says that she was forced to move out of the parties' accommodations unexpectedly. However, she does not explain how she had planned to make the same mortgage payments if she had not left unexpectedly and the deposit had remained with the landlord. Further, I note Ms. Howell provided no financial statements or other evidence proving that she was unable to make mortgage payments without the deposit refund.
20. Overall, I find Ms. Howell has not met her burden of showing that her deferral of 2 mortgage payments was caused by the timing of Mr. Bond's pet and damage deposit reimbursement, or that he was responsible for enabling those mortgage payments. So, I find Mr. Bond is not responsible for any additional mortgage interest Ms. Howell owes to her lender because of those deferrals. I dismiss Ms. Howell's claim for \$1,796.09 in additional mortgage interest.

Is Ms. Howell responsible for Mr. Bond losing \$850 in wages and travel expenses?

21. As noted, Mr. Bond counterclaims \$850 for costs of attending court proceedings involving the parties. His submissions calculate the amount as \$868: 4 8-hour days at \$24 per hour totalling \$768, plus 4 round trips of 160 kilometres each, assuming a specific gas price and vehicle gas consumption, totalling \$100. Mr. Bond says that Ms. Howell should pay for these losses because her allegations that brought him to court are "bogus."

22. Mr. Bond provided no evidence proving whether he is employed and what his income is, or that he had work scheduled on the days he attended court. He also provided no evidence proving how far he traveled to court, receipts showing what he paid for gas, or evidence supporting the price of gas or his vehicle's gas consumption. So, I find Mr. Bond has not proven the value of his claimed damages.
23. Even if he had proven the value of his claimed lost wages and travel expenses, the evidence contains virtually no detail about what Ms. Howell's allegations were. Aside from Mr. Bond's unsupported statement that Ms. Howell's allegations are untrue, nothing before me suggests that Ms. Howell purposefully made untrue allegations that led to the court proceedings that required Mr. Bond's attendance. I note that there is no evidence that the proceedings have concluded or that a decision has been rendered. Further, it is not entirely clear what legal basis there would be for the CRT to order what are effectively "costs" for a separate court proceeding.
24. I find Mr. Bond has not met his burden of showing that he attended court because Ms. Howell purposefully made untrue allegations against him, or that he sustained \$850 in losses because of his attendance. I dismiss Mr. Bond's counterclaim.

CRT FEES, EXPENSES, AND INTEREST

25. The *Court Order Interest Act* applies to the CRT. I find that Ms. Howell is entitled to pre-judgment interest on the \$463.98 owing from January 28, 2021, the due date of the first utility bill at issue, to the date of this decision. This equals \$1.53.
26. Under section 49 of the CRTA, and the 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. I find Ms. Howell was partly successful in her claims, so she is entitled to reimbursement of half of the \$175 she paid in CRT fees for those claims, which equals \$87.50. Mr. Bond was unsuccessful in his counterclaim, but Ms. Howell paid no CRT fees for the counterclaim. Neither party claimed CRT dispute-related expenses.

ORDERS

27. Within 30 days of the date of this decision, I order Mr. Bond to pay Ms. Howell a total of \$553.01, broken down as follows:
 - a. \$463.98 in debt for a bed and unpaid utilities,
 - b. \$1.53 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$87.50 in CRT fees.
28. Ms. Howell is also entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.
29. I dismiss Ms. Howell's remaining claims, and Mr. Bond's counterclaim.
30. 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.
31. 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.

Chad McCarthy, Tribunal Member