



# Civil Resolution Tribunal

Date Issued: October 29, 2021

File: SC-2021-004991

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Moon v. Moon*, 2021 BCCRT 1148

BETWEEN:

PATRICK ALAN MOON

**APPLICANT**

AND:

KELLY MOON

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

David Jiang

## INTRODUCTION

1. The respondent, Kelly Moon, says the claims of the applicant, Patrick Alan Moon, are out of time. Civil Resolution Tribunal (CRT) staff referred this dispute to me for a decision on this issue.
2. The parties are self-represented.

3. For the reasons that follow, I find Mr. Moon's claims are out of time under the *Limitation Act* and dismiss them. In making this decision, I reviewed the Dispute Notice, the Dispute Response, the parties' submissions as documented in a Preliminary Issue Tribunal Decision Plan, and documents provided by Mr. Moon as evidence and further submissions.

## **JURISDICTION AND PROCEDURE**

4. These are the CRT's formal written reasons. 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 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.
6. 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.

### ***Mr. Moon's Request for Late Submissions***

7. Mr. Moon emailed CRT staff to request that he be allowed to make late submissions about Ms. Moon's final reply in the Preliminary Issue Tribunal Decision Plan. For the following reasons, I decline Mr. Moon's request.
8. In her final reply, Ms. Moon reiterated that the limitation period had expired. She also said that Mr. Moon should not be reimbursed any CRT fees or dispute-related expenses. I find Ms. Moon raised no new issues. She merely repeated her positions

as stated in the Dispute Response. I also find below that Mr. Moon's claims are out of time based on his evidence and submissions alone. I did not rely on Ms. Moon's reply submission. I find that in these circumstances, refusing Mr. Moon's request is consistent with the CRT's mandate as outlined in CRTA section 2. This includes providing dispute resolution services in an accessible, speedy, and economical manner.

## **ISSUE**

9. The issue is whether Mr. Moon's claims are out of time.

## **BACKGROUND, EVIDENCE AND ANALYSIS**

10. Mr. Moon alleges the following in the Dispute Notice. First, in June 2011 he loaned \$1,500 to Ms. Moon. Ms. Moon needed the money to fly to New York. Second, around the same time, Ms. Moon had a winning lottery ticket in her possession for \$1,838. Mr. Moon says his friend TZ bought the ticket on his behalf, so it was actually his ticket. Mr. Moon says Ms. Moon agreed to cash in the ticket and give the proceeds to Mr. Moon before her flight. Ultimately, she never paid Mr. Moon anything. Mr. Moon claims \$1,500 as repayment of the loan plus \$1,838 for the lottery ticket proceeds, for a total of \$3,338.

11. Ms. Moon denies these claims. In the Dispute Response she says these claims are out of time.

12. Mr. Moon withdrew his claim about a ladder, so I need not address it.

## ***The Limitation Act***

13. The *Limitation Act* applies to disputes before the CRT. A limitation period is a time period within which a person may bring a claim. CRTA section 13.1 says the limitation period stops running after an applicant requests the CRT to resolve a claim.
14. I must first consider which version of the *Limitation Act* applies. Section 30(2) of the *Limitation Act* says that its former version applies to a claim based on an act or omission that took place before June 1, 2013. Mr. Moon indicated on the Dispute Notice that he became aware of his claims in June 2011. He provided a witness statement from TZ. TZ wrote that she was present when Mr. Moon and Ms. Moon came to an agreement about the \$1,500 loan and lottery ticket. She said this occurred “about a decade ago”. Mr. Moon also wrote in a statement of facts that Ms. Moon kept the loan and ticket proceeds, advised Mr. Moon he did “not...need the money”, and made no attempt to pay back the loan or ticket “since June of 2012”.
15. Given Mr. Moon’s submissions and TZ’s evidence, I find that both of Mr. Moon’s substantive claims are for an act or omission that occurred before June 1, 2013. This is because Ms. Moon refused payment of the loan and ticket proceeds in June 2012, so the claims arose at least by that date. So, I find the former *Limitation Act* applies.
16. Under section 3(5) of the former *Limitation Act*, the limitation period to bring a contractual claim is 6 years after the date on which the right arose to do so. I find this applies to the loan claim. For demand loans the limitation period begins to run on the day the loan was made. See *Kong v. Saunders*, 2014 BCCA 508.
17. I find that Mr. Moon’s alleged loan of \$1,500 was a demand loan and not a contingent loan. This is because repayment did not depend on a future date or event. So, I find the limitation period began running on June 30, 2011 at the latest and expired on June 30, 2017. Mr. Moon applied for dispute resolution on June 22, 2021. This claim is therefore out of time and I dismiss it.
18. This leaves Mr. Moon’s claim for the lottery ticket proceeds. I find his claim is based either on breach of contract or damages for conversion. Under sections 3(5) and 3(6)

of the former *Limitation Act*, I find that the applicable limitation period is 6 years for both. Mr. Moon alleged fraud but I find the sections of the former *Limitation Act* about fraud are inapplicable. They largely address fraud by trustees against beneficiaries that are unaware of the breach of trust. I find this unlike the dispute before me. I also find there to be no evidence of fraud.

19. As noted earlier, I have found that Ms. Moon refused repayment in June 2012. So, I find that the limitation period began running on the lottery ticket proceeds claim by June 30, 2012 at the latest, and expired on June 30, 2018. I find this second and final substantive claim is out of time as well and dismiss it.

20. Under section 49 of the CRTA and CRT rules, the CRT generally will order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I dismiss Mr. Moon's claims for reimbursement.

## **ORDER**

21. I dismiss Mr. Moon's claims and this dispute.

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David Jiang, Tribunal Member