



# Civil Resolution Tribunal

Date Issued: December 15, 2021

File: SC-2021-003013

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Connell v. Dreger*, 2021 BCCRT 1312

B E T W E E N :

GREG CONNELL and BOOK IT TALENT AGENCY INC.

**APPLICANTS**

A N D :

TYLER DREGER

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Richard McAndrew

## INTRODUCTION

1. This dispute is about electronic money transfers. The applicants, Book It Talent Agency Inc. (Book It) and Greg Connell, say that they mistakenly sent electronic payments to the respondent Tyler Dreger. Mr. Connell says he co-owns Book It. The applicants claim \$949.68.

2. Mr. Dreger denies the claim. He admits that he received money transfers but he says that the transfers were not sent from Mr. Connell. Further, Mr. Dreger says that he is not responsible for the applicants' mistakes.
3. Mr. Connell represents himself and Book It. Mr. Dreger is 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. 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.
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 do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.
8. Both parties agree that Mr. Dreger resides in Saskatchewan. However, since Mr. Dreger did not raise any concerns about the CRT deciding this dispute, I find

he attorned or agreed to the CRT's jurisdiction (see the non-binding CRT decision in *Richard v. Swann Communications USA Inc.*, 2021 BCCRT 1283).

## ISSUE

9. The issue in this dispute is whether Mr. Dreger was unjustly enriched by payments from the applicants. If so, how much does he owe the applicants?

## EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicants must prove their 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. Mr. Dreger did not provide any evidence, though he had the opportunity to do so.
11. The applicants say that they accidentally sent 4 electronic money transfers to Mr. Dreger, totaling \$949.68 from Book It's bank account. The applicants say that Mr. Dreger is a total stranger to them and these transfers were intended as payment for acting services performed by another individual who has the same name, and an almost identical email address, as Mr. Dreger.
12. I find that the applicants' claim is what is referred to in law as a claim for damages in "unjust enrichment". The legal test for unjust enrichment requires the applicants to prove that Mr. Dreger was enriched, that the applicants suffered a corresponding deprivation or loss, and there was no valid basis for the enrichment (see *Kosaka v. Chan*, 2009 BCCA 467).
13. The applicants say the payments were sent by BC, Mr. Connell's spouse and Book It's co-owner. The applicants provided email receipts showing the following payments sent by BC to Mr. Dreger:
  - a. A payment of \$143.44 was sent on August 29, 2020.
  - b. A payment of \$164.20 was sent on September 16, 2020.

- c. A payment of \$165.80 was sent on September 16, 2020.
  - d. A payment of \$476.24 was sent on January 9, 2021.
14. The applicants also provided bank statements showing the above payments to Mr. Dreger. The applicants say that BC sent the above payments from Book It's bank account. Since Mr. Dreger does not dispute this, I find that the payments totaling \$948.68 came from Book It's bank account.
  15. Although Mr. Dreger admits receiving the electronic transfers, he says the transfers were not sent from Mr. Connell or his email account. However, I find that nothing turns on whether the payments were sent by BC rather than Mr. Connell. Based on the email receipts, bank statements and Mr. Dreger's admission, I find that Book It sent \$949.68 to Mr. Dreger.
  16. Based on the above, I find that the applicants have proved that Mr. Dreger was enriched by payments totaling \$949.68 and Book It suffered a corresponding loss. However, I find that Mr. Connell has not proved that he personally suffered a loss since the funds came from Book It's bank account, rather than his own bank account. So, I dismiss Mr. Connell's claim.
  17. Book It must also prove that there was no legal basis for the enrichment. Mr. Dreger does not dispute the applicants' submissions that Book It did not owe him any obligations or intend to gift the money to him. Since Mr. Dreger did not dispute these submissions, I accept them as accurate and find that Book It accidentally sent the money to Mr. Dreger. As such, I find that there was no valid basis for this enrichment.
  18. Mr. Dreger argues that he is not obligated to return the money because this was not his mistake. I agree that the applicants have not proved that Mr. Dreger was at fault for receiving the money. However, the applicants do not need to prove this to establish unjust enrichment. Although Mr. Dreger was not responsible for receiving the money, he was enriched by the payments that were not intended for him. Under the doctrine of unjust enrichment, Mr. Dreger is obligated to return the money that was mistakenly sent to him even though he was not at fault.

19. Mr. Dreger also says that he was not aware of the transfers until months afterwards. However, the applicants say that they were not aware that the transfers were sent to Mr. Dreger until the intended recipient later contacted them. Based on this undisputed submission, I find that the applicants did not unduly delay notifying Mr. Dreger and nothing turns on the fact that the transfers to Mr. Dreger were discovered months after delivery.
20. Mr. Dreger also says that he was unable to resolve this because Mr. Connell was rude and threatening. However, I find that Mr. Connell's demeanor and conduct is not relevant to this dispute. So, I find it unnecessary to make findings about this.
21. Mr. Dreger also says that his bank advised him not to do anything and that Mr. Connell's bank could recover the money from his bank or from insurance. I find that these alleged statements are hearsay. Although hearsay evidence is admissible in CRT proceedings, I do not give these alleged statements any weight in my decision because Mr. Dreger's bank's alleged advice is not relevant to the issues in this dispute anyway.
22. Based on the above, I find that Mr. Dreger was unjustly enriched in the amount of \$949.68. I find that Mr. Dreger owes Book It this amount.

### ***CRT fees, dispute-related expenses and interest***

23. The *Court Order Interest Act* (COIA) applies to the CRT. Book It is entitled to pre-judgment interest on \$949.68, from the date that the applicants notified Mr. Dreger of the error, to the date of this decision. Since the applicants notified Mr. Dreger of the error on an unspecified date in March 2021, I find that that COIA interest began on March 31, 2021. This totals \$3.04.
24. 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. Since Book It was successful, I find that it is entitled to reimbursement of \$125 in paid CRT fees. Book It did not request reimbursement of dispute-related expenses.

## ORDERS

25. Within 30 days of the date of this order, I order Mr. Dreger to pay Book It a total of \$1,076.70, broken down as follows:
- a. \$948.68 as damages for unjust enrichment,
  - b. \$3.04 in pre-judgment COIA interest, and
  - c. \$125 in CRT fees.
26. Book It is entitled to post-judgment interest as applicable.
27. Mr. Connell's claim is dismissed.
28. 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.
29. 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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Richard McAndrew, Tribunal Member