



# Civil Resolution Tribunal

Date Issued: January 14, 2022

File: SC-2020-007189

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wu v. Hu*, 2022 BCCRT 52

BETWEEN:

DOUGLAS WU

**APPLICANT**

AND:

LISA HU

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

Micah Carmody

## INTRODUCTION

1. This dispute is about a loan between 2 people.

2. On March 28, 2019, the applicant, Douglas Wu, loaned the respondent, Lisa Hu, \$1,000 USD and \$5,000. In this decision all dollar amounts are Canadian dollars unless USD is specified.
3. Mr. Wu says Ms. Hu repaid some of the initial loan but borrowed additional money. He says he is owed \$3,700 plus \$1,000 USD. In the Dispute Notice filed at the outset of this dispute, Mr. Wu claimed \$5,000, but in later submissions he says the debt is \$4,950 after currency conversion. Mr. Wu represents himself in this dispute.
4. Ms. Hu denies borrowing money other than the initial loan and says she has paid the debt in full. Ms. Hu is represented by a lawyer, Anthony Lagemaat.

## **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. In some respects, the parties in this dispute call into question each other's credibility. Credibility of witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required where credibility is in issue. In the circumstances of this dispute, I find that I am able to assess and weigh the evidence and submissions before me. Bearing in mind the CRT's mandate that includes proportionality and prompt resolution of disputes, I decided to hear this dispute through written submissions.

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.

## **ISSUES**

9. The issues in this dispute are how much of the initial loan Ms. Hu has repaid to Mr. Wu, and whether Mr. Wu loaned Ms. Hu additional money.

## **EVIDENCE AND ANALYSIS**

10. As the applicant in this civil proceeding, Mr. Wu must prove his claim on a balance of probabilities, meaning more likely than not. The parties agreed in a statement of facts that the initial loan was \$5,000 plus \$1,000 USD, so the burden shifts to Ms. Hu to prove that she has repaid the money. Mr. Wu must prove he loaned additional money as alleged.
11. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision. Ms. Hu had the opportunity to submit documentary evidence but chose not to.
12. The undisputed background is that Ms. Hu was a frequent gambler at a casino where Mr. Wu worked and still works. On March 28, 2019, Mr. Wu loaned Ms. Hu the initial loan.
13. Although nothing turns on this, Ms. Hu says the parties were not friends and Mr. Wu approached her with money to allow her to continue gambling. In contrast, Mr. Wu says the parties have been friends since 2016 and the money was for Ms. Hu to travel.

14. Ms. Hu says she has repaid most of the loan through a series of payments between April 2019 and January 2020. In addition, Ms. Hu undisputedly gave Mr. Wu a ring as collateral. Ms. Hu says the ring is a diamond ring. She does not state its value but says when combined with the \$5,600 in cash payments set out above, the debt is paid in full. I address the ring further below.
15. Mr. Wu says Ms. Hu has repaid \$2,300. Mr. Wu otherwise denies receiving any of the payments Ms. Hu claims to have made. Mr. Wu provided some of the parties' WeChat messages with an undisputed English translation from Mark Lee, a certified translator, which I accept.
16. On January 13, 2020, Mr. Wu messaged, "Total owed to me is \$3000 CAD and \$1000 USD." Importantly, Ms. Hu did not respond to dispute the debt, although she now says by that time she had repaid at least \$3,000. Her next message was to wish Mr. Wu a happy Lunar New Year's Eve.
17. As noted, Ms. Hu submitted no evidence in support of her alleged cash payments. She says she followed Mr. Wu's instructions to repay him in cash so there would be no record of the transactions, thus protecting his employment. I find this explanation unsatisfactory. Even if Mr. Wu asked for cash, I find if Ms. Hu had made the payments as she alleges she would likely have some evidence, whether bank statements showing cash withdrawals, a statement from someone who witnessed a payment, WeChat messages between the parties acknowledging payment, or something else. So, I find that Mr. Wu's message correctly captured the loan balance as of January 13, 2020.
18. The parties agree that Ms. Hu gave Mr. Wu a \$1,000 bill on January 13, 2020. Mr. Wu says he gave Ms. Hu ten \$100 bills in exchange. Ms. Hu denies this and says the \$1,000 bill was collateral. I infer this relates to the \$1,000 bill's status as of print and subject to an order under the federal *Currency Act* that had the effect of removing the bills' status as legal tender, although that order did not take effect until January 1, 2021. I prefer Ms. Hu's evidence here as it is more consistent with the parties' WeChat

messages. Mr. Wu acknowledges that he later “deposited” the \$1,000 bill, so I find it must be considered a payment toward the debt.

19. I do not accept Mr. Wu’s assertion that he loaned Ms. Hu another \$1,000 in cash on February 2, 2020, which Ms. Hu denies. Mr. Wu says he reluctantly accepted the ring as collateral for this additional payment. Although Ms. Hu sent him photos of the ring on that day, there is no documentation of any money changing hands. For the parties’ other 2 other loans, including a 2018 loan Ms. Hu repaid and is not in dispute, Mr. Wu clearly documented the loans in a WeChat message. Mr. Wu has not explained why he did not similarly document the alleged February 2 loan. I therefore find the ring was offered in exchange for Mr. Wu’s patience on the outstanding loan, not for an additional loan.
20. In summary, I find the amount of Ms. Hu’s debt to Mr. Wu is the initial loan less the admitted payments of \$2,300 and the \$1,000 paid on January 13, 2020. I find no other amounts were loaned or repaid. So, I find Ms. Hu owes Mr. Wu \$1,700 plus \$1,000 USD. Mr. Wu says the \$1,000 USD converts to \$1,250. Ms. Hu did not challenge this conversion and it is lower than current rates and rates in effect when the loan reasonably should have been repaid, so for the purposes of this dispute, I accept it. I find Ms. Hu must pay Mr. Wu \$2,950.
21. What about the ring? Mr. Wu says he took it to a jeweler who advised that it has no value. He provided no evidence in support, but he says it would not make sense to pay for an appraisal of a worthless item. Ms. Hu disputes that the ring has no value but does not say what it is worth or provide any evidence of its value. She says it is a diamond ring but does not provide any other details. I am unable to determine anything about the ring’s potential value from the photos contained within WeChat messages.
22. Ms. Hu did not counterclaim for the ring’s return or the outstanding value. I find that if the ring were valuable, Ms. Hu would likely have counterclaimed for its return or at least stated its value or provided details about the ring. On balance, I Ms. Hu has not

established that the ring has any value. I make no order for its return since Ms. Hu did not file a claim for its return.

23. Mr. Wu also seeks punitive damages against Ms. Hu for alleged inconvenience and hardship, jeopardizing his employment and attacking Mr. Wu's character. Punitive damages are reserved for particularly malicious and oppressive conduct, which I find did not occur here. Mr. Wu has not explained how Ms. Hu's failure to repay the loan in a timely manner, and not his decision to loan money to a gambler, jeopardized his employment at the casino.
24. Mr. Wu claims interest under the *Court Order Interest Act* (COIA), which applies to the CRT. However, section 2(b) of the COIA says interest under the COIA does not apply where the parties have an agreement about interest, which Ms. Hu alleges. The initial pattern of payments and the parties' WeChat messages leads me to conclude that the parties had an agreement about interest despite Mr. Wu's application of those initial payments to the principal for the purposes of this claim. Therefore, I find COIA interest does not apply here, and I dismiss Mr. Wu's claim to COIA interest. Mr. Wu does not claim contractual interest, so I make no order about that.
25. 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. Wu paid \$200 in CRT fees, including \$25 for a default decision. Ms. Hu paid \$75 in CRT fees, including \$50 to cancel the default decision. I find Mr. Wu was partially successful, so I find he is entitled to reimbursement of half his CRT fees, which equals \$100. Ms. Hu was partially successful in that I found the debt is less than she was ordered to pay in the default decision, so I find she is entitled to reimbursement of half her CRT fees, or \$37.50. The net result is that Ms. Hu must pay Mr. Wu \$62.50.
26. Mr. Wu also claims \$75 as the cost of enforcement proceedings in the Provincial Court, \$20 for printing costs, \$45 for the cost of the certified court translator, \$12 for the cost of registered mail and \$5 for a bank statement print out. Mr. Wu did not explain why he needed to print and mail documents given the CRT is an online

tribunal and the service records show the CRT mailed the Dispute Notice to Ms. Hu, so I do not allow those expenses. I find the Provincial Court costs are best addressed by that court. I order Ms. Hu to reimburse Mr. Wu for half the translation cost and bank statement cost, which I find were reasonably incurred expenses. This equals \$25.

## **ORDERS**

27. Within 14 days of the date of this order, I order Ms. Hu to pay Mr. Wu a total of \$3,037.50, broken down as follows:
  - a. \$2,950.00 in debt, and
  - b. \$87.50, for \$62.50 in CRT fees and \$25 in dispute-related expenses.
28. Mr. Wu is entitled to post-judgment interest, as applicable.
29. 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.
30. 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.

---

Micah Carmody, Tribunal Member