



# Civil Resolution Tribunal

Date Issued: March 4, 2022

File: SC-2021-004689

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Doukali v. Simpson*, 2022 BCCRT 239

BETWEEN:

MOURAD DOUKALI

**APPLICANT**

AND:

MARKIEL SIMPSON

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. The applicant, Mourad Doukali, sold the respondent, Markiel Simpson, some men's clothing items. Mr. Doukali says Mr. Simpson has not paid for all the items sold.

2. Mr. Simpson says Mr. Doukali sold him a suit and a pair of used shoes for \$250. He says he owes nothing more.
3. Mr. Doukali says the sale included shirts, ties and other items. He says the \$250 he undisputedly received was a partial payment toward the agreed \$750 price. Mr. Doukali also says he “warned” Mr. Simpson that if he did not pay on time, the price increased to \$1,700. Mr. Doukali claims \$1,700 in this dispute, which does not appear to account for the undisputed \$250 payment.
4. Mr. Doukali is self-represented. Mr. Simpson is represented by a lawyer, Anne Cochrane. For the reasons set out below, I dismiss Mr. Doukali’s claim.

## **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.
9. The parties referred to a BC Supreme Court claim that Mr. Doukali apparently filed against Mr. Simpson and others. Neither party provided any evidence about the issues in the BCSC action. Neither party said the CRT should not resolve this CRT claim or there are overlapping issues between this dispute and the BCSC claim. As a result, I consider it appropriate to adjudicate this contractual dispute, which I find is within the CRT's small claims jurisdiction.
10. Mr. Doukali submitted relevant evidence after the CRT's evidence submission deadline. Mr. Simpson had the opportunity to review and comment on the late evidence, so I find there is little prejudice in allowing it, particularly given that I dismiss the claim. I have considered the late evidence and refer to it where relevant below.

## **ISSUE**

11. The issue in this dispute is whether Mr. Doukali sold Mr. Simpson anything more than the undisputed suit and shoes for \$250.

## **EVIDENCE AND ANALYSIS**

12. As the applicant in this civil proceeding, Mr. Doukali must prove his claim on a balance of probabilities, meaning more likely than not. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
13. The parties met in January 2021. Mr. Simpson was employed as a manager of the building where Mr. Doukali lived.

14. Mr. Simpson's evidence is as follows. When Mr. Simpson gave Mr. Doukali an introductory tour of the building, Mr. Doukali explained that he used to own a shop where he sold suits. He offered to sell Mr. Simpson a suit at a significantly reduced price of \$200. Mr. Simpson initially declined, but Mr. Doukali insisted. Mr. Simpson eventually agreed to consider purchasing a suit but did not think Mr. Doukali would follow through. To Mr. Simpson's surprise, a few days later on January 21, 2021, Mr. Doukali called and said he had a suit ready. Mr. Simpson tried on the suit and agreed to pay \$200. Mr. Doukali showed him some matching second-hand shoes, which fit. Mr. Simpson says he felt pressured, and agreed to pay Mr. Doukali's \$50 asking price for the shoes.
15. Mr. Simpson undisputedly paid Mr. Doukali \$250 by e-transfer on January 22, 2021.
16. In contrast, Mr. Doukali says Mr. Simpson saw how Mr. Doukali was dressed and begged him to provide some clothing like Mr. Doukali's. He says he ultimately sold Mr. Simpson the following items:
  - a. 1 black Boss suit size 42, altered to fit at no charge
  - b. 2 shirts with French cuffs
  - c. 2 Armani ties
  - d. 2 cufflinks
  - e. 1 pair of Italian shoes
  - f. 2 pairs of socks given as a courtesy.
17. Mr. Doukali says he told Mr. Simpson that these items would cost \$1,700, which he says is 1/3 of the "normal price." Mr. Doukali says after some negotiation they settled on a price of \$750. Mr. Simpson paid \$250 that day, with the \$500 balance to be paid within a month.
18. For the reasons that follow, I accept Mr. Simpson's evidence entirely and find that he bought a suit and shoes for \$250 and did not receive or agree to pay anything more.

19. Mr. Doukali relies on a hand-written “delivery receipt”. It is not entirely legible, which I infer is why he also provided a typed copy of the receipt, although the typed copy contains some different information. Mr. Simpson says he did not see either document before this CRT proceeding.
20. I find Mr. Doukali’s evidence internally inconsistent in a number of ways. Mr. Doukali’s delivery receipt and typed receipt include different amounts and totals. The delivery receipt said the lump sum price for the items was \$750, while the typed receipt said \$1,700. The delivery receipt said the total owed was \$1,550. These receipts are inconsistent with each other and Mr. Doukali does not address the inconsistency despite Mr. Simpson’s raising it.
21. Mr. Doukali’s valuation of the items also differs. He says he told Mr. Simpson the items would cost \$1,700, which was 1/3 the normal price, meaning the items were worth \$5,100. In the receipts, he said the items’ market value was \$1,900 plus taxes.
22. Mr. Doukali’s evidence also discloses a perceived ongoing conflict with Mr. Simpson and Mr. Simpson’s employer who operated the building where Mr. Doukali lived. For example, Mr. Doukali says Mr. Simpson overcharged him for a replacement key. In a November 25, 2021 email to himself but directed at Mr. Simpson, Mr. Doukali said Mr. Simpson stole a Prada handbag containing wallets and other items worth over \$5,000. Mr. Doukali does not ask for any remedy related to these allegations.
23. Mr. Doukali says his living accommodations came with bed bugs and mice, and says his requests for repairs were not attended to in a timely way. I make no findings about these complaints but include them here as background. I also note that in an August 17, 2021 letter to the building operator, Mr. Doukali blamed the operator for the theft of his 2 bicycles, which he valued at \$1,700, the same amount he claims in this dispute. Mr. Simpson says he did not hear anything from Mr. Doukali about unpaid amounts owing from the clothing purchase until after Mr. Doukali began claiming his bicycles went missing. Nothing in the evidence contradicts this. If Mr. Simpson had agreed, as Mr. Doukali suggests, to pay \$500 within a month after the January 2021

sale, I would expect some record of Mr. Doukali demanding payment before August 2021.

24. I acknowledge the photos Mr. Doukali says show Mr. Simpson wearing the suit, shirts and ties Mr. Doukali sold him. The photos appear to be from a public online profile. I find the photos do not assist Mr. Doukali because there is no independent evidence to confirm that the pictured clothes are the clothes Mr. Doukali claims to have sold Mr. Simpson.
25. In all, I find Mr. Doukali has not met his burden of proving that Mr. Simpson bought more than a suit and shoes for \$250. I find Mr. Simpson owes nothing more, and I dismiss Mr. Doukali's claims.
26. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to recover their CRT fees and reasonable dispute-related expenses. Mr. Doukali was unsuccessful, so I dismiss his claim for reimbursement of CRT fees. Mr. Simpson was successful but did not pay CRT fees. Mr. Simpson says he seeks "costs" but he did not provide any particulars. "Costs" normally refers to a court-awarded contribution toward legal fees and expenses. The CRT's Rules say the CRT will not order a party to pay another party any fees a lawyer has charged in the CRT process unless there are extraordinary circumstances. I find there are no extraordinary circumstances here. Even if there were, Mr. Simpson did not provide any supporting evidence, so I make no order.

## **ORDER**

27. I dismiss Mr. Doukali's claims and this dispute.

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Micah Carmody, Tribunal Member