



Civil Resolution Tribunal

Date Issued: March 21, 2022

File: SC-2021-007239

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wolfe v. Fletcher*, 2022 BCCRT 309

BETWEEN:

RYAN WOLFE

APPLICANT

AND:

JOSHUA FLETCHER

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This small claims dispute is about a personal loan.
2. The applicant, Ryan Wolfe, says he loaned \$5,000 to the respondent, Joshua Fletcher, in 2019. Mr. Wolfe says Mr. Fletcher agreed to repay the money in monthly

instalments but has failed to make all the payments. Mr. Wolfe claims \$2,750 as the loan's outstanding balance.

3. Mr. Fletcher does not dispute the \$5,000 loan or the repayment terms. However, he says Mr. Wolfe understood that Mr. Fletcher would prioritize supporting his family and paying his bills over repaying Mr. Wolfe. Further, Mr. Fletcher says the amount owing should be reduced because Mr. Wolfe stayed with Mr. Fletcher for 3 months for free, which Mr. Wolfe denies.
4. Both parties are self-represented.

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.

ISSUE

9. The issue in this dispute is how much of the outstanding personal loan balance Mr. Fletcher must pay Mr. Wolfe, if anything.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Mr. Wolfe must prove his claim on a balance of probabilities (meaning “more likely than not”). I have read all the parties’ submissions and weighed the evidence, but only refer to that necessary to explain my decision. I note that Mr. Fletcher did not provide any evidence, despite being given the opportunity to do so.
11. Mr. Wolfe loaned Mr. Fletcher \$5,000 to pay off his credit card in the fall of 2019. Mr. Fletcher agreed to repay Mr. Wolfe \$250 per month, starting in January 2020. If Mr. Fletcher paid \$250 per month as agreed, the \$5,000 loan would have been repaid by August, 2021. The parties were friends at the time of the loan. None of this is disputed.
12. Mr. Wolfe submitted e-transfer records which show that Mr. Fletcher sent Mr. Wolfe money 9 times over the 15-month period between January 2020 and March 2021. It is undisputed Mr. Fletcher did not pay Mr. Wolfe any more money after March 2021. Although the records do not show how much money Mr. Fletcher paid, he does not dispute Mr. Wolfe’s claim that \$2,750 remains outstanding on the loan. So, I accept that Mr. Fletcher has paid \$2,250 of the \$5,000 loaned and that \$2,750 remains outstanding.
13. Contrary to Mr. Fletcher’s argument, I do not find the parties agreed that Mr. Fletcher could simply not pay Mr. Wolfe during months of financial difficulty. First, Mr. Fletcher’s use of the word “understanding” does not support it was an express term

of the parties' agreement. Second, Mr. Wolfe says he repeatedly asked Mr. Fletcher to pay the balance, which Mr. Fletcher does not dispute. I find it unlikely Mr. Wolfe would repeatedly ask for payment if the parties had agreed Mr. Wolfe would be excused from the monthly payment at times. So, I also find the parties did not impliedly agree that Mr. Fletcher need not make a monthly payment when it was financially difficult.

14. As noted, Mr. Fletcher says the outstanding \$2,750 owing should be reduced because Mr. Wolfe lived at Mr. Fletcher's house for 3 months.
15. To the extent Mr. Fletcher argues he is entitled to offset any of Mr. Wolfe's rent, food or utility costs against the outstanding loan balance, I find he cannot succeed. This is because the burden to prove a set-off shifts to the party alleging it (see *Lund v. Appleford*, 2017 BCPC 91). Mr. Fletcher has provided no evidence or explanation of the value of the rent, food and utility benefit he alleges Mr. Wolfe received. So, I find he has failed to prove he is entitled to a set-off.
16. In any event, Mr. Wolfe says he paid Mr. Fletcher \$500 in rent for each of the 3 months he stayed with him. An email from Mr. Wolfe's bank confirms 2 of those 3 alleged payments, so I accept that Mr. Wolfe paid Mr. Fletcher some money toward his rent, food and utility use.
17. I acknowledge Mr. Fletcher's argument that he was financially unable to make payments some months, due to the COVID-19 pandemic and his family and other financial obligations. However, he is still bound by the repayment terms of the parties' agreement, even during financially difficult times.
18. On balance, I find Mr. Fletcher owes Mr. Wolfe the outstanding loan balance of \$2,750. I find Mr. Wolfe has failed to pay that balance by August 2021, as the parties agreed upon. So, I find he must now pay Mr. Wolfe the \$2,750 outstanding balance.
19. The *Court Order Interest Act* applies to the CRT. I find Mr. Wolfe is entitled to pre-judgment interest on the \$2,750 outstanding balance from the August 31, 2021 payment due date to the date of this decision. This equals \$6.88.

20. 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 find Mr. Wolfe is entitled to reimbursement of \$125 he paid in CRT fees. He claimed no dispute related expenses.

ORDERS

21. Within 30 days of the date of this order, I order Mr. Fletcher to pay Mr. Wolfe a total of \$2,881.88, broken down as follows:

- a. \$2,750 in debt,
- b. \$6.88 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$125 in CRT fees.

22. Mr. Wolfe is entitled to post-judgment interest, as applicable.

23. 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.

24. 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.

Sherelle Goodwin, Tribunal Member