



Civil Resolution Tribunal

Date Issued: April 25, 2022

File: SC-2021-009143

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Victoria Kids (dba Victoria Kids Out and About Child Care Centre) v. Newman-Bennett*, 2022 BCCRT 475

B E T W E E N :

VICTORIA KIDS (Doing Business As VICTORIA KIDS OUT AND ABOUT CHILD CARE CENTRE

APPLICANT

A N D :

MICHELLE NEWMAN-BENNETT

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is over payment for daycare services. The named applicant, Victoria Kids (dba Victoria Kids Out and About Child Care Centre) (Victoria Kids), says the respondent, Michelle Newman-Bennett, failed to give the required 30 days' notice to end the parties' contract and also made late payments. Victoria Kids claims a total of \$835.
2. Ms. Newman-Bennett says Victoria Kids unilaterally terminated the parties' contract and breached it. She says she owes nothing.
3. Victoria Kids is represented by its owner, Janine Bolton. Ms. Newman-Bennett 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). CRTA section 2 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. CRTA section 39 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. 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. CRTA section 42 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.

ISSUES

8. The issues in this dispute are:
 - a. Whether the named applicant has legal standing to bring this claim,
 - b. If so, is either party in breach of contract, and
 - c. If so, does Ms. Newman-Bennett owe the claimed \$835 for failure to give 30 days' notice and for late fees.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, as the applicant Victoria Kids must prove its claims on a balance of probabilities (meaning "more likely than not"). I have read all the parties' submitted evidence and arguments but refer only to what I find relevant to provide context for my decision.
10. I turn first to the issue of standing, which the lay parties did not raise but I find is a threshold legal question I must address. The issue is about whether the named applicant has a legal right to make its claim against Ms. Newman-Bennett.
11. As noted above, in this CRT dispute the applicant named itself as "Victoria Kids, Doing Business As Victoria Kids Out and About Child Care Centre". As named, Victoria Kids is just a business name for a sole proprietorship that I understand is owned by Ms. Bolton. However, as named, it is not a corporation and it is not an individual.

12. An unincorporated entity that is also not a registered partnership is not a legal entity. There is no evidence Victoria Kids is a registered partnership. Further, a sole proprietorship is not a legal entity with the capacity to enter into contracts.
13. Given how the applicant is named in this CRT dispute, I find it has no standing to bring this claim. I find it had no capacity to contract with Ms. Newman-Bennett and no capacity to make a legal claim against her. So, given the lack of standing, I find Victoria Kids' claim must be dismissed.
14. In coming to this decision, I make no findings on the merits of the claim, such as whether Ms. Newman-Bennett was required to give 30 days' notice and owes any money for failing to do so. Nothing in this decision prevents a properly named applicant from filing a claim, subject to the applicable limitation period.
15. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. As Victoria Kids was unsuccessful, I dismiss its claim for reimbursement of CRT fees. No dispute-related expenses were claimed.

ORDER

16. I dismiss Victoria Kids' claim and this dispute.

Shelley Lopez, Vice Chair