



Civil Resolution Tribunal

Date Issued: June 15, 2022

File: SC-2021-009156

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Money Money Payday Loans Ltd. v. Carey*, 2022 BCCRT 701

B E T W E E N :

MONEY MONEY PAYDAY LOANS LTD.

APPLICANT

A N D :

HELEN CAREY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about a payday loan. The applicant, Money Money Payday Loans Ltd. (Money), says the respondent, Helen Carey, failed to repay a \$580 payday loan as agreed. Money claims \$687, including the \$580 loan principal, \$87 for borrowing fees, and \$20 for non-sufficient funds (NSF) charges. Money also claims 30% annual contractual interest on the principal.

2. Ms. Carey agrees that she failed to make payments according to the loan agreement. However, Ms. Carey says that after she received the Dispute Notice for these proceedings, she made 2 payments towards the outstanding loan, totalling \$550. She says she does not have the ability to pay more.
3. Money is represented by an employee or principal. Ms. Carey 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.

ISSUE

8. The issue in this dispute is to what extent, if any, Ms. Carey owes Money under the payday loan agreement.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant Money must prove its claims on a balance of probabilities (meaning “more likely than not”). I have read all of the parties’ evidence and submissions, but I refer only to what I find is necessary to explain my decision.
10. Money provided a payday loan agreement (agreement) showing that Money gave Ms. Carey \$580 as a payday loan on March 22, 2021. The agreement shows that Ms. Carey was to repay Money a total of \$667, which included the \$580 loan principal and an agreed loan fee of \$87, calculated at 15% of the loan amount, as permitted under the *Payday Loans Regulations*. Ms. Carey was to repay Money by April 30, 2021. Money says, and Ms. Carey does not dispute, that the entire debt was unpaid when this dispute was started.
11. Ms. Carey says that she was unable to make the agreed payments due to unexpected financial and other life circumstances. She says she advised Money of her situation and that she intended to pay the loan off when she had the financial means. She says she has now paid Money \$550.
12. Ms. Carey provided screenshots of 2 separate e-transfer payments from her bank account to Money, which together total \$550. Money agrees that Ms. Carey made a \$250 payment in about mid-December 2021, and a further \$300 payment on January 12, 2022. So, I accept that Ms. Carey has already paid \$550 toward the claimed loan amount.
13. This leaves a \$30 unpaid balance on the principal loan (\$580 - \$550), plus \$87 in borrowing fees and a \$20 NSF charge, none of which Ms. Carey disputes. Therefore, I order Ms. Carey to pay Money \$137.

14. I turn to Money's claim for contractual interest. Under the written agreement, Ms. Carey agreed to pay late interest on the principal at the monthly rate of 2.5% per month. Money claims interest at the equivalent annual rate of 30%. However, section 4 of the federal *Interest Act* says that when an interest rate is expressed as a rate for a period of less than one year, and the contract does not state the equivalent annual percentage rate, the maximum allowable interest is 5% per year. Here, the parties' agreement did not state the equivalent annual interest rate. Therefore, I find that Money is only entitled to contractual interest at the rate of 5% per year.
15. I find Ms. Carey must pay Money 5% annual interest on the \$30 unpaid loan principal, from April 30, 2021, the date the loan payment was due, to the date of this decision. This equals \$1.69.
16. I also find that Ms. Carey owes Money 5% annual interest on the \$550 she has already paid towards the loan principal. Interest on the first \$250 payment from April 30 to December 15, 2021 equals \$7.88. Interest on the second \$300 payment from April 30, 2021 to January 12, 2022 equals \$10.60. So, I find Ms. Carey must pay Money a total of \$20.17 in contractual interest.
17. 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. I find Money is entitled to reimbursement of \$125 in CRT fees. Neither party claimed any dispute-related expenses.

ORDERS

18. Within 30 days of the date of this decision, I order Ms. Carey to pay Money a total of \$282.17, broken down as follows:
 - a. \$137 in debt,
 - b. \$20.17 in contractual pre-judgment interest, and

c. \$125 in CRT fees.

19. Money is entitled to post-judgment interest, as applicable.
20. 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.
21. 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.

Kristin Gardner, Tribunal Member