



Civil Resolution Tribunal

Date Issued: June 15, 2022

File: SC-2021-009490

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lu v. Xu*, 2022 BCCRT 703

BETWEEN:

TIAN FU LU

APPLICANT

AND:

AI LAN XU

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. On August 19, 2020, Tian Fu Lu lent \$15,000 to Ai Lan Xu (who asked to be referred to as Madam Xu). When Mr. Lu started this Civil Resolution Tribunal (CRT) dispute on December 20, 2021, he said that Madam Xu still owed him \$4,330. Since then, Mr. Lu says that Madam Xu has paid him a further \$4,168. Now, he claims the \$132 difference. He also claims 6% per year contractual interest.

2. Madam Xu says that she has paid a total of \$15,368. She says that this fully repays the loan principle plus “2-3%” interest per year, which is what she says they agreed to. Madam Xu asks me to dismiss Mr. Lu’s claims.
3. The parties are each self-represented.

JURISDICTION AND PROCEDURE

4. These are the CRT’s formal written reasons. 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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT’s mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
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 pay money or to do or stop doing something. The CRT's order may include any terms or conditions the CRT considers appropriate.

ISSUE

8. The issue in this dispute is whether Madam Xu owes Mr. Lu any outstanding principal or interest on the loan.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, Mr. Lu as the applicant must prove his case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. As mentioned above, it is undisputed that on August 19, 2020, Mr. Lu lent Madam Xu \$15,000. The agreement was verbal. Verbal contracts, including loan agreements, are enforceable just like written contracts. However, it can be harder to prove the terms of a verbal contract.
11. I will first address the issue of how much Madam Xu has paid Mr. Lu. As mentioned above, she says she has paid \$15,368, which is more than Mr. Lu says. Madam Xu provided online banking records for 6 email money transfers between July 6 and December 21, 2021, which confirm her evidence that she paid Mr. Lu a total of \$15,368. Mr. Lu did not provide any evidence to the contrary, so I accept Madam Xu's evidence on this point. I find that she has repaid the loan's principal.
12. It is undisputed that the parties agreed to an interest rate, but they disagree about what that interest rate is. Mr. Lu says that the parties agreed to 6% per year. Madam Xu says that the agreement was vaguer than that. She says that she agreed to pay 2% to 3% per year, depending on the going rates for GICs. She does not explain this further. She says that \$15,368 fully repays the principal and interest

for the loan. While Madam Xu does not say how she calculated this amount, I find based on the payment dates and amounts, \$368 is almost exactly 2% interest.

13. As mentioned above, as the applicant, Mr. Lu must prove that it is more likely than not that Madam Xu agreed to an interest rate of 6%. The only written evidence of the loan's terms is 2 demand letters Mr. Lu's lawyer sent Madam Xu. I find that these letters simply repeat what Mr. Lu says the parties agreed to, which is not independent or objective evidence.
14. With that, I find that there is an evidentiary tie, meaning that neither party provided any persuasive evidence that their account is correct. I find that Mr. Lu has not proven that Madam Xu agreed to a 6% interest rate. I find that he has not proven that he is entitled to any further payment, and I dismiss his claim on that basis.
15. I note that the parties also disagreed about when the loan was initially due. Given my conclusion, I find it unnecessary to address this issue.
16. 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. Lu was unsuccessful, so I dismiss his claim for CRT fees and dispute-related expenses. Madam Xu did not claim any dispute-related expenses or pay any CRT fees.

ORDER

17. I dismiss Mr. Lu's claims, and this dispute.

Eric Regehr, Tribunal Member