



# Civil Resolution Tribunal

Date Issued: July 7, 2022

File: SC-2021-001874

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Thomas v. Alston*, 2022 BCCRT 783

BETWEEN:

MILES CALVIN THOMAS

**APPLICANT**

AND:

JAMIE ALSTON

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Richard McAndrew

## INTRODUCTION

1. This dispute is about spousal debt. The applicant, Miles Calvin Thomas says he loaned \$3,200 to DH, a deceased person who is not a party in this dispute. Mr. Thomas says that the respondent, Jamie Alston was in a marriage-like relationship with DH. Mr. Thomas claims that Ms. Alston is responsible for DH's debt based on

this relationship. Mr. Thomas claims \$3,200 in unpaid debt and \$700 for mental anguish.

2. Ms. Alston denies Mr. Thomas' claims. She says that she is not responsible for DH's alleged debts or conduct.
3. Both parties are 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.

### ***Limitation Act***

8. Based on the dates of the alleged loans discussed below, I find that there may be an issue as to whether Mr. Thomas started this dispute in time under the *Limitation Act*. Neither party raised this issue. However, based on my decision below dismissing Mr. Thomas's claims, I find it unnecessary to request submissions from the parties relating to this issue.

### **ISSUES**

9. The issues in this dispute are:
  - a. Does Ms. Alston owe a \$3,200 debt to Mr. Thomas?
  - b. Does Ms. Alston owe Mr. Thomas damages for mental anguish?

### **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, Mr. Thomas, as the applicant, must prove his claims on a balance of probabilities, which means "more likely than not." I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
11. Mr. Thomas says he loaned money to DH on multiple dates, totaling \$3,200. Mr. Thomas says that he began lending money to DH in July 2018 and these debts are unpaid. Both parties agree that DH is now deceased. Mr. Thomas does not claim that Ms. Alston borrowed the money. Rather, Mr. Thomas's claims against Ms. Alston are based solely on her relationship with DH.
12. Ms. Alston says that she separated from DH in December 2017 and she has no knowledge of DH's alleged debts. Ms. Alston provided supporting statements from GH, who was DH's father and HW, who works with Ms. Alston. Both GH's and HW's statements say that Ms. Alston separated from DH in December 2017. Ms. Alston says that she did not receive any portion of the loan proceeds.

13. In contrast, Mr. Thomas says that Ms. Alston separated from DH in July 2018 and he argues that she is responsible for DH's debts incurred up to 2 years after their separation. Mr. Thomas has not provided any supporting authority for this alleged obligation. However, I find that nothing turns on Ms. Alston's separation date. I say this because I find that there is generally no obligation under BC law requiring a person to pay their spouse's debt to a creditor, regardless of the separation date.
14. Part 5 of the *Family Law Act* (FLA), discusses spousal debts, referred to as "family debt." Specifically, FLA section 86 says that family debt includes financial obligations incurred by a spouse before the spouses separate or, after the date of separation of incurred for the purpose of maintaining family property. However, section 82 of the FLA says that Part 5 of the FLA does not affect the rights or remedies of a spouse's creditors, such as Mr. Thomas. So, I find that Part 5 of the FLA does not apply to DH's alleged debts to Mr. Thomas. As such, I find that Ms. Alston is not responsible for DH's alleged debts under the FLA. Also, I note that the CRT does not have jurisdiction to determine disputes under the FLA and I am not aware of any other BC legislation that imposes such an obligation.
15. Based on the above, I find that Ms. Alston is not responsible for DH's alleged debts. Further, Mr. Thomas has not provided a legal basis, or any supporting evidence, for his claim for mental anguish against Ms. Alston. So, I dismiss this claim as unproven.
16. For the above reasons, I dismiss Mr. Thomas's claims.

### ***CRT fees and expenses***

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. Since Mr. Thomas was not successful, I find that he is not entitled to reimbursement of his CRT fees.
18. Mr. Thomas also claims \$285 in dispute-related fees for process server fees and he provided a supporting May 19, 2021 receipt. However, since Mr. Thomas was not

successful in this dispute, I find that he is not entitled to reimbursement of his dispute-related expenses. Ms. Alston did not claim reimbursement of dispute-related expenses.

## **ORDER**

19. I dismiss Mr. Thomas's claims and this dispute.

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Richard McAndrew, Tribunal Member