



# Civil Resolution Tribunal

Date Issued: July 25, 2022

File: SC-2021-009659

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Morrison v. Kavanaugh*, 2022 BCCRT 841

B E T W E E N :

JOEL SCOTT MORRISON

**APPLICANT**

A N D :

CAROL KAVANAUGH

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Acting Chair and Vice Chair

## INTRODUCTION

1. The applicant, Joel Scott Morrison, says the respondent, Carol Kavanaugh, unlawfully retained his tools.

2. The applicant says the respondent called him in a panic because the respondent's family member, S, was visiting and S's car had "completely died". The applicant says after he fixed S's car, he returned some equipment to his apartment. The applicant says he was gone for 10 minutes and when he returned the car was gone, with his tools still on the passenger seat. The applicant says the respondent refused to give him S's number and so the applicant says he lost work and had to replace the tools. The applicant claims \$2,379, based on \$579 for the tools' alleged value and approximately 9 weeks of lost income.
3. The respondent says the applicant's tools were on the back seat of S's car and that S was unaware the applicant had forgotten the toolbox. The respondent says that on December 24, 2021 (2 days after the applicant started this proceeding) she returned the toolbox to the applicant.
4. The parties are each 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). 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.
6. 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.

7. 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.
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 issues are whether the respondent is responsible for the applicant's tools and alleged wage loss, and if so whether the applicant is entitled to the claimed \$2,379.

## **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, the applicant must prove his claims on a balance of probabilities (meaning "more likely than not"). Only the respondent submitted documentary evidence and written arguments, though the applicant had the opportunity to do so.
11. As noted above, the applicant says after fixing the car owned by the respondent's family member S, S drove away with his toolbox in the car and then the respondent refused to return the tools to him. The evidence before me is limited, but the applicant indicates this occurred in October 2021. The applicant complains that the respondent refused to give him S's contact information.
12. First, there is no evidence before me that would support a conclusion that the respondent is legally responsible for S's actions, noting that S is undisputedly an adult. I am aware of no legal obligation that would have required the respondent to give S's contact information to the applicant in these circumstances, noting the respondent says S was uncomfortable doing so given the applicant's past romantic interest.

13. Second, the undisputed evidence is that when S returned to visit the respondent (S lives outside the Lower Mainland), S brought the tools and the respondent returned them to the applicant. This is supported by a witness statement submitted by the respondent. This occurred on December 24, 2021, 2 days after the applicant started this CRT proceeding, though before the Dispute Notice was issued and served on the respondent. I find the applicant has received his tools back.
14. Third, the applicant submitted no evidence about the tools' value, or any evidence proving that he replaced them. The applicant also submitted no evidence at all about the alleged wage loss. I find the applicant's damages are unproven. For all the reasons above, I dismiss his claim.
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. Neither party paid CRT fees nor claimed dispute-related expenses, so I make no order.

## **ORDER**

16. I dismiss the applicant's claim and this dispute.

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Shelley Lopez, Acting Chair and Vice Chair