



Civil Resolution Tribunal

Date Issued: September 1, 2022

File: SC-2022-001497

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Apacible v. Luciano*, 2022 BCCRT 986

BETWEEN:

LLOYD APACIBLE

APPLICANT

AND:

VITTORIO LUCIANO

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant Lloyd Apacible says the respondent Vittorio Luciano has failed to repay a personal loan. Mr. Apacible claims \$3,223.

2. Mr. Luciano acknowledges the debt and says he intends to repay the loan in full “or by instalment when I can”.
3. The parties are each 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.
8. Both parties indicated difficulty with uploading evidence. However, Mr. Apacible did upload a 15-page .pdf setting out the loan details. Mr. Luciano failed to respond to the CRT’s multiple messages until after a final warning he said he had issues with his

CRT account. CRT staff responded and extended the evidence deadline but Mr. Luciano did not reply and did not provide any evidence. I find the CRT staff's attempts reasonable given the CRT's mandate that includes speed, efficiency and proportionality. Given Mr. Luciano admits in his Dispute Response that he owes the claimed amount, and bearing in mind the CRT's mandate, I decided it was unnecessary to attempt to further contact Mr. Luciano about evidence.

ISSUE

9. The issue is whether Mr. Luciano must repay Mr. Apacible the claimed \$3,223 for the personal loan Mr. Apacible provided.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Mr. Apacible must prove his claim on a balance of probabilities (meaning "more likely than not"). I have read all the submitted evidence and arguments but refer only to what I find relevant to provide context for my decision. As noted, Mr. Luciano did not provide any documentary evidence and also chose not to file any written submissions, despite being given the opportunity to do so.
11. The following background facts are undisputed. Mr. Luciano needed help with some bills and Mr. Apacible made him a series of personal loans. Mr. Apacible's submitted evidence shows that between June and November 2021 he electronically transferred \$3,420 to Mr. Luciano, inclusive of the fees charged by Western Union to facilitate the transfer.
12. As noted, Mr. Apacible claims \$3,223. I find Mr. Luciano must pay Mr. Apacible this amount, since Mr. Luciano admits that his friend Mr. Apacible loaned him the money and that he intends to repay "the amount in full". While Mr. Luciano said in his Dispute Response that he may repay the amount "by instalment when I can", I find Mr. Apacible is entitled to the order sought. I say this because I find the loans were what are known in law as demand loans. This means they are repayable on demand. This

is because there is no evidence or suggestion that Mr. Apacible ever agreed to be repaid in instalments. I allow the \$3,223 as claimed.

13. Mr. Apacible expressly waives any claim for interest. Given section 2(d) of the *Court Order Interest Act* that says there is no pre-judgment interest if the creditor waives it in writing, I make no order for pre-judgment interest.
14. 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 Mr. Apacible was successful, I allow his claim for reimbursement of \$175 in CRT fees. Mr. Apacible did not claim dispute-related expenses.

ORDERS

15. Within 21 days of this decision, I order Mr. Luciano to pay Mr. Apacible a total of \$3,398, broken down as follows:
 - a. \$3,223 in debt, and
 - b. \$175 in CRT fees.
16. Mr. Apacible is entitled to post-judgment interest, as applicable.
17. 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. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Shelley Lopez, Vice Chair