



# Civil Resolution Tribunal

Date Issued: October 24, 2022

File: SC-2022-002949

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Arheam v. Imo*, 2022 BCCRT 1159

BETWEEN:

FAYEZ ARHEAM

**APPLICANT**

AND:

ANYA REVEAL IMO

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This dispute is about a broken iPhone. The applicant, Fayez Arheam, and the respondent, Anya Reveal Imo, are former roommates. Mr. Arheam says that during an altercation between the parties, Mr. Imo “smashed” Mr. Arheam’s iPhone on the floor. Mr. Arheam seeks \$1,572.48, the amount he says he paid for the phone.

2. Mr. Imo denies damaging Mr. Arheam's phone, and says it was actually Mr. Arheam who damaged Mr. Imo's phone. Mr. Imo did not file a counterclaim. He says he owes Mr. Arheam nothing.
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). 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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. Section 39 of the CRTA says that the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Some of the evidence in this dispute amounts to a "he said, he said" scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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.
6. Section 42 of the CRTA says that 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.

### ***Harassment***

8. In his submissions, Mr. Imo claims Mr. Arheam harassed him, sexually harassed a non-party, and tried to damage Mr. Imo's "image and reputation". Mr. Imo did not claim a specific set-off or file a counterclaim for damages for the alleged harassment. Additionally, there is no recognized tort of harassment in British Columbia (see: *Anderson v. Double M Construction Ltd.*, 2021 BCSC 1473, at paragraph 61). I make no findings about Mr. Imo's allegations of harassment.

### **ISSUE**

9. The issue in this dispute is whether Mr. Imo damaged Mr. Arheam's phone, and if so, what is the appropriate remedy.

### **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this, the applicant Mr. Arheam must prove his claims on a balance of probabilities (meaning "more likely than not"). While I have read all of the parties' submitted evidence and arguments, I have only addressed those necessary to explain my decision.
11. The parties are former roommates whose relationship soured. While preparing to move out, the parties had an altercation where Mr. Arheam placed various kitchen items in Mr. Imo's room while he was out. Upon returning home, Mr. Imo moved the various items back to Mr. Arheam's room. None of this is disputed.
12. Tensions escalated and Mr. Arheam says he started to film Mr. Imo when Mr. Imo took Mr. Arheam's iPhone and smashed it on the ground. In contrast, Mr. Imo says he "waved" Mr. Arheam's hand out of his face. Mr. Imo says it was Mr. Arheam who

then took Mr. Imo's phone, smashed it on the floor and threw it in the toilet. Although Mr. Arheam says he was filming Mr. Imo's behaviour, there is no video in evidence.

13. Mr. Imo denies damaging Mr. Arheam's phone and says Mr. Arheam damaged his own phone himself. Mr. Arheam also denies damaging Mr. Imo's phone and says Mr. Imo's phone was damaged before the parties' altercation.
14. On balance, I find Mr. Arheam has not established that Mr. Imo damaged his phone. Both versions of the parties' altercation are plausible. I cannot determine based on each party's photos of their broken phone what, or who, actually caused the damage. I find this dispute amounts to a "he said, he said" scenario that results in an evidentiary tie. It is Mr. Arheam's responsibility to prove his claim, and I find he has not done so. I dismiss Mr. Arheam's claim.
15. As for Mr. Imo's damaged phone, as noted, he did not file a counterclaim. So, I make no findings about Mr. Imo's damaged phone.
16. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. Mr. Arheam was not successful, so I dismiss his claim for reimbursement of tribunal fees. Neither party claimed dispute-related expenses.

## **ORDER**

17. I dismiss Mr. Arheam's claim, and this dispute.

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Andrea Ritchie, Vice Chair