



Civil Resolution Tribunal

Date Issued: October 25, 2022

File: SC-2022-002533

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Vermeire v. Zado*, 2022 BCCRT 1168

BETWEEN:

DONALD A ALPHONSE VERMEIRE

APPLICANT

AND:

SCOTT CLAREMONT ZADO

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about vacation expenses. The parties are former friends and their March 2022 trip to Las Vegas was unexpectedly extended due to exposure to

COVID-19. The applicant, Donald A Alphonse Vermeire, says the respondent, Scott Claremont Zado, failed to pay his share of hotel expenses and taxi fares. Mr. Vermeire claims \$1,000.20.

2. Mr. Zado says the parties agreed to share travel expenses but only “over and above” Mr. Vermeire’s travel insurance reimbursement that Mr. Zado says the parties agreed to share. So, Mr. Zado says he already paid his share and says that Mr. Vermeire may owe him money for trip expenses, as discussed below. Mr. Zado did not file a counterclaim.
3. The parties are each self-represented. For the reasons that follow, I allow Mr. Vermeire’s claim in part.

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. I was initially unable to open any of Mr. Zado's submitted evidence. So, I asked CRT staff to obtain readable copies and Mr. Zado did so. The parties each had an opportunity to make submissions on that evidence.

ISSUE

9. The issue in this dispute is whether Mr. Zado owes Mr. Vermeire \$1,000.20 for vacation expenses, and to what extent, if any, Mr. Zado's trip costs may be set-off against Mr. Vermeire's claim.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Mr. Vermeire must prove his claim on a balance of probabilities (meaning "more likely than not"). I have read the parties' submitted documentary evidence and arguments but refer only to what I find relevant to provide context for my decision.
11. As noted, the parties are former friends who have travelled together many times in the past. The parties' trip to Las Vegas was scheduled for March 7 to 14, 2022 inclusive. Before the intended departure for home in BC, they both tested positive for COVID-19 and so could not depart. This required them to extend their stay in Las Vegas, and later in Seattle. The parties went separate ways on March 24, 2022 before returning home. None of this is disputed.
12. In this dispute, Mr. Vermeire claims a total of \$1,000.20, for Mr. Zado's ½ share of hotel expenses in Las Vegas between March 14 and 23, Seattle hotel expenses on March 23, and taxi fare to the Las Vegas airport on March 23, 2022.

The parties' travel expenses agreement

13. As noted above, the first issue in this dispute is whether Mr. Vermeire agreed to “share” his travel insurance reimbursement for the extended stay, as Mr. Zado alleges. Mr. Vermeire denies he ever agreed to do so.
14. I do not accept Mr. Zado’s position. First, there is no evidence documenting such an agreement. While verbal agreements are enforceable, they can be harder to prove. I find the alleged verbal agreement to share the insurance proceeds unproven. Second, I find Mr. Vermeire’s position is more in line with common sense. Mr. Vermeire paid insurance premiums so he would have the benefit of coverage if he became ill while travelling. Mr. Zado undisputedly did not pay those premiums. I find the fact the parties generally shared travel expenses “50/50” does not reasonably extend to Mr. Zado sharing the benefits of Mr. Vermeire’s insurance coverage. In any event, Mr. Vermeire says that while he has applied for insurance coverage for his expenses, he has not had any response and does not expect any coverage. I find Mr. Zado is not entitled to Mr. Vermeire’s travel insurance coverage.
15. The second issue is whether Mr. Vermeire owes Mr. Zado any money for their entire trip’s shared expenses. As noted, Mr. Zado did not file a counterclaim despite having the opportunity to do so. So, I find he seeks a set-off or deduction against any money I find Mr. Vermeire is entitled to. In other words, if Mr. Zado can prove Mr. Vermeire owes him money that is reasonably connected to Mr. Vermeire’s claim for travel expenses, Mr. Zado can deduct it from the amount he owes Mr. Vermeire. I find Mr. Zado’s travel costs are reasonably connected to Mr. Vermeire’s claim, because they all arise from the same trip and the same “50/50” sharing agreement. The burden is on Mr. Zado to prove the amounts he seeks to set-off (see *Wilson v Fotsch*, 2010 BCCA 226 and *Dhothar v. Atwal*, 2009 BCSC 1203). In short, in the circumstances here I do not agree with Mr. Vermeire’s assertion that Mr. Zado was required to formally file his own separate CRT claim.
16. Next, Mr. Vermeire says that the parties agreed before the trip that if Mr. Zado provided the accommodations for the scheduled trip (through Mr. Zado’s

timeshare), Mr. Vermeire would pay the parties' airfare. Mr. Vermeire says this arrangement was because Mr. Zado had said he would lose his timeshare entitlement if he did not use it by the end of March. Mr. Zado denies this and says he paid a fee to extend his timeshare entitlement.

17. On balance, I find the weight of the evidence does not support Mr. Vermeire's assertion that Mr. Zado agreed to bear a disproportionate share of the planned Las Vegas trip's expenses by paying much more for accessing his timeshare entitlement than what Mr. Vermeire paid for the flights. In particular, the time share accommodations cost Mr. Zado \$796.58 more than the flights cost Mr. Vermeire. I find such an unequal arrangement inconsistent with the parties' respective submissions about this trip and past holidays where they carefully kept track of expenses. I note I make no findings about the parties' differing submissions about trip expenses from 13 years ago, as it was so long ago and there is no supporting evidence before me about it.
18. So, I find the parties' agreement for the March 2022 trip was to share trip expenses equally, both for the planned Las Vegas trip and for the trip to Seattle, regardless of whether Mr. Vermeire was the one who wanted to go to Seattle rather than stay in Las Vegas.

Claim and set-off amounts

19. Mr. Vermeire submitted receipts and credit card statements showing he paid 2 hotels a total of \$1,977.93 CAD: Las Vegas (\$1,845.06 CAD) and Seattle (\$132.87 CAD). Mr. Zado's ½ share is \$988.97 CAD. Mr. Vermeire also claims \$11.23 CAD as Mr. Zado's ½ share of taxi fare to the Las Vegas airport on March 23, 2022. Mr. Zado says he left \$10 USD in cash at the hotel for this taxi, a submission Mr. Vermeire does not address. So, I find it likely Mr. Zado paid for the taxi and I dismiss the \$11.23 aspect of Mr. Vermeire's claim. For Mr. Vermeire's claim, this leaves the \$988.97 CAD, which Mr. Zado agrees would be his ½ share of the hotels.

20. As part of his own calculations of the trip's joint expenses, Mr. Zado says he is responsible for ½ of the \$814.78 in flights Mr. Vermeire paid for, which is \$407.39. Mr. Vermeire does not dispute those flights' cost. Taken together, Mr. Zado says his ½ share of Mr. Vermeire's total trip costs is \$1,396.36 CAD (\$988.97 + \$407.39).
21. I turn then to Mr. Zado's set-off requests. First, the time-share accommodation. Mr. Zado says this cost was \$1,611.36 CAD and so Mr. Vermeire's ½ share is \$983.34. I note the evidence shows that Mr. Zado paid for the time share accommodation in early 2019. The \$1,611.36 is based on: a) \$951.88 USD for the accommodation which Mr. Zado says is \$1,324.07 CAD, a rate I accept as Mr. Vermeire did not dispute it, plus b) \$287.29 CAD for a January 30, 2022 "timeshare exchange" charge Mr. Zado has on his credit card statement. As noted above, I find the parties must bear the time share accommodation expense equally, so I find Mr. Vermeire is responsible for ½ the \$1,324.07, which is \$662.04. I do not agree that Mr. Vermeire is responsible for ½ the \$287.29 because Mr. Zado would have had to pay that fee at some point, whether Mr. Vermeire shared the trip or not. I also find it unproven that Mr. Zado overpaid Mr. Vermeire \$1.77 in cash for taxi fare.
22. Next, in his later submissions in response to Mr. Zado's evidence, Mr. Vermeire admits Mr. Zado paid for Mr. Vermeire's COVID-19 test, which as noted above undisputedly cost \$178.50 CAD. However, Mr. Vermeire says he gave Mr. Zado \$100 USD in cash in a casino after winning at a slot machine, and that this equals about \$130 CAD. Mr. Vermeire says he owes Mr. Zado \$48 for the balance of the test's cost. In contrast, Mr. Zado says he understood the \$100 USD was a gift as a share of Mr. Vermeire's casino winnings. The burden of proving a gift is on the party alleging it, here Mr. Zado. I find it unproven the \$100 USD cash was a gift, particularly given the evidence showing the extent to which the parties tracked their respective expenses. Mr. Zado does not dispute Mr. Vermeire's assertion that at the time the \$100 USD was given it was worth about \$130 Canadian. So, I find Mr. Zado is only entitled to a \$48.50 CAD set-off for the COVID-19 test.

23. As for the car rental and gas totalling \$355.31, Mr. Zado submitted a copy of his credit card statement showing he paid \$327.61 CAD for the rental and \$27.70 CAD for the gas. Mr. Vermeire's ½ share for both charges is \$177.66. The parties disagree about whether Mr. Zado unfairly had greater use of the car. I find I cannot favour one version over the other and on the weight of the evidence before me I find the parties must bear this expense equally.
24. Taken together, I find Mr. Zado's set-off totals \$888.20 (\$662.04 + \$48.50 + \$177.66). Deducting the \$888.20 from the \$988.97 for Mr. Vermeire's costs, this results in Mr. Zado owing Mr. Vermeire \$100.77. I order Mr. Zado to pay Mr. Vermeire the \$100.77.

Interest, CRT fees, and dispute-related expenses

25. The *Court Order Interest Act* (COIA) applies to the CRT. I find Mr. Vermeire is entitled to pre-judgment interest on the \$100.77 under the COIA. Calculated from March 24, 2022 (a date I consider reasonable in the circumstances) to the date of this decision, this interest equals \$0.67.
26. 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. Since Mr. Vermeire was partially successful, I find he is entitled to reimbursement of ½ the \$125 he paid in CRT fees, which is \$62.50. No dispute-related expenses were claimed.

ORDERS

27. Within 21 days of this decision, I order Mr. Zado to pay Mr. Vermeire a total of \$163.94, broken down as follows:
- a. \$100.77 in debt,
 - b. \$0.67 in pre-judgment interest under the COIA, and
 - c. \$62.50 in CRT fees.

28. Mr. Vermeire is entitled to post-judgment interest, as applicable.

29. 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