



Civil Resolution Tribunal

Date Issued: November 16, 2022

File: SC-2022-003221

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *SL v. Continue Learning Corp.*, 2022 BCCRT 1239

B E T W E E N :

SL and PW

APPLICANTS

A N D :

CONTINUE LEARNING CORP.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about a tuition fee refund.
2. The applicants, SL and PW, enrolled their child in “Kumon Method” educational programs run by the respondent, Continue Learning Corp. The applicants say they cancelled the programs in August 2021, but the respondent continued withdrawing

the applicants monthly tuition fees when the applicants' child was no longer attending classes. The applicants seek reimbursement of \$2,500 in tuition fees paid between September 2021 and May 2022.

3. The respondent denies the claims. It says the applicants did not provide written notice of cancellation as required until May 2022. It says paid tuition is not refundable under the parties' contract.
4. The applicants are self-represented. The respondent is represented by an employee or officer.
5. In the published decision, I anonymized the applicants' identity to protect the identity of the applicants' minor child.

JURISDICTION AND PROCEDURE

6. 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.
7. 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.
8. 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.

9. 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.

Preliminary matters

10. In their application for dispute resolution, the applicants listed \$3,000 in the “amount” field for their requested resolution, which was broken down as “\$2,500 + interest”. In the “claim description”, the applicants asked for a refund of \$2,500 in paid tuition fees and said “the interest is the cost generated by the automatic deduction of these 10 months”. The applicants also separately claimed interest under the *Court Order Interest Act*. Given the above, I find the applicants’ primary claim is for a refund of \$2,500 in paid tuition fees. Given my conclusion below, I do not need to address interest.
11. In its submissions, the respondent alleged that the applicants slandered and defamed the respondent online. Under CRTA section 119 the CRT expressly has no jurisdiction over libel and slander, which includes defamation. However, the respondent did not file a counterclaim in any event, and so I find it is not before me. I make no findings about the alleged slander and defamation.

ISSUE

12. The issue in this dispute is to what extent, if any, the applicants are entitled to a refund of \$2,500 in tuition fees.

EVIDENCE AND ANALYSIS

13. In a civil proceeding like this one, the applicants must prove their claims on a balance of probabilities (meaning more likely than not). I have read all the parties’ submissions and evidence but refer only to what I find relevant to provide context for my decision.

The applicants did not provide final reply submissions despite having the opportunity to do so.

14. On about July 13, 2020, the applicants entered into a contract with the respondent for their child to attend the respondent's reading program. On August 24, 2020, the applicants entered into a second contract with the respondent adding math as a second subject.
15. I find the parties' contractual terms are those contained in 6 signed enrollment documents in evidence: the "Registration Fees & Monthly Tuition", "Parent Perseverance Pledge", and "Notice to Parents". The 2 signed Notice to Parents documents are undated, but the remaining documents are dated July 13, 2020 for the reading program enrollment and August 24, 2020 for the math program enrollment. I find the 2 Notice to Parents documents were likely signed with the related enrollment documents in July and August 2020, respectively. The applicants did not dispute any of the enrollment documents in evidence.
16. The applicants say their contract with the respondent was for one year, from August 2020 to August 2021. However, the documentary evidence does not support this. I find that the applicants agreed to the terms contained in the enrollment documents. The enrollment documents stated that the applicants agreed to a minimum 15 consecutive month term, with the option to withdraw at the end of the term on 45 days written notice by email. The enrolment documents also stated that a second subject could be added at any time by renewing the 15 month commitment in both subjects. Therefore, I find the applicants most recently agreed to a 15-month contract that started August 24, 2020, when they enrolled their child in math as a second subject.
17. The enrolment documents also stated that after the initial 15-month term, enrolment continued automatically until either the child completed the program or the required notice was provided. Neither party suggested that the applicants' child completed either the reading or math program. So, I find the applicants were required to provide 45 days' written notice to terminate the parties' contract.

18. Finally, the enrollment documents also stated that monthly tuition was due in advance, and was non-refundable and non-transferable. I find the applicants agreed that paid tuition fees were non-refundable.
19. The applicants say they verbally cancelled the contract before August 2021 on several occasions. The applicants say despite this, the respondent continued to charge monthly tuition fees until May 2022.
20. The respondent does not dispute that it continued to charge monthly tuition until May 2022. The respondent says it requires its enrollment contracts to be cancelled in writing because students can be absent for lengthy periods of time, but then return to class. The respondent says its staff contacted the applicants by phone as a courtesy check in to see when the applicants' child would be returning to class. The respondent says despite its effort to communicate with the applicants, the applicants did not provide written notice to discontinue their child's enrollment until May 2022. It says it continued to prepare learning materials for the applicants' child each week until May 2022.
21. I acknowledge that the parties dispute when, and whether, the applicants provided verbal notice of cancellation. However, I find nothing turns on whether verbal notice of cancellation was provided. I say this because as noted above the parties' contract undisputedly required the applicants to provide 45 days written notice of cancellation. The evidence shows that the applicants did not provide written notice of cancellation until May 6, 2022.
22. The applicants say the respondent should have reminded them that written notice of cancellation was required. However, I find there was no contractual term requiring the respondent to remind the applicants that written notice was required to cancel the parties' contract. So, I find the respondent had no obligation to do so.
23. As noted, the applicants bear the burden of proving their claims. Here, the applicants seek a refund of paid tuition fees between September 2021 and May 2022. However, the applicants have not proven they cancelled the parties' contract at any time before

May 2022. Therefore, I find they have not proven they are entitled to a refund of any paid tuition between September 2021 and May 2022. I dismiss the applicants' claim for the \$2,500 tuition refund. Given this, I do not need to address the applicants' claim for interest.

24. 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. As the applicants were unsuccessful, I dismiss their fee claim. The respondent did not pay any CRT fees and neither party claimed any dispute-related expenses, so I award none.

ORDER

25. I dismiss the applicants' claims and this dispute.

Leah Volkers, Tribunal Member