



Civil Resolution Tribunal

Date Issued: October 26, 2023

File: SC-2022-010098

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Snyder v. Quiachon*, 2023 BCCRT 919

BETWEEN:

KEVIN WILLIAM SNYDER

APPLICANT

AND:

Tito Carmichael Quiachon

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. The applicant, Kevin William Snyder, paid for a new snowboard, bindings, and pants on behalf of the respondent, Tito Carmichael Quiachon. The applicant now says they want the snowboard gear back, or \$1,000.

2. The respondent says the snowboard gear was a gift. He says the applicant brought this claim in retaliation because the respondent refused to give the applicant rides to the ski mountain. The respondent says I should dismiss the claim.
3. Each party is 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.
5. 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. In some respects, the parties in this dispute call into question each other's credibility. Credibility of 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. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required where credibility is in issue. In the circumstances of this dispute, I find that I am able to assess and weigh the evidence and submissions before me. Bearing in mind the CRT's mandate that includes proportionality and prompt resolution of disputes, I decided to hear this dispute through written submissions.
6. 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.

ISSUE

7. The issue in this dispute is whether the snowboard gear was a gift, and if not, what remedy is appropriate.

EVIDENCE AND ANALYSIS

8. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
9. The background facts are brief and undisputed. The applicant and respondent are or were friends. The respondent wanted to snowboard but did not have the necessary equipment. The applicant wanted to snowboard but did not have the necessary transportation. In November 2022, the parties went shopping together for snowboards, bindings, and other equipment. The applicant paid for everything.
10. The respondent says the applicant made these purchases as gifts for the respondent. The law presumes bargains rather than gifts, so the respondent is required to prove that the applicant intended the purchases as gifts (see *Pecore v. Pecore*, 2007 SCC 17 at paragraph 24). For the following reasons, I the respondent has not done so.
11. The respondent says when shopping for snowboard gear the applicant loudly said things to the effect of "I got you," so that everyone in the stores knew the applicant had money and was paying for the respondent's equipment. The respondent says the applicant was "flexing" or showing off cash "like rappers do."
12. The applicant says does not deny "flexing" or saying "I got you" in the stores. However, I find this is insufficient to establish that the applicant objectively intended the purchases as gifts. The evidence must show that the intention to gift was inconsistent with any other intention or purpose, such as a loan (see *Locke v. Locke*, 2000 BCSC 1300 at paragraph 20). I find that saying "I got you" is ambiguous as it could indicate an intention to give or loan money for a purchase.

13. The parties' text messages from the days before the purchases show that the applicant offered to contribute exactly \$300 toward the respondents' snowboard gear. The applicant said they would contribute \$300 for the gear because the respondent was going to be driving both parties to the ski hill "every weekend."
14. Why the applicant ended up paying for all the snowboard gear is less straightforward. The applicant says the respondent asked the applicant to cover the purchases as he was waiting for a paycheque and had some significant expenses but did not want to miss the snowboarding season. I accept that explanation because it is consistent with the parties' text messages in which the respondent acknowledged his financial struggles.
15. I acknowledge there are some texts that could suggest an intention to gift, such as when the applicant said the respondent should pay what he could and the applicant would "cover the rest." But I find this expression is equally consistent with offering to loan sufficient funds to cover the balance as it is with gifting those funds.
16. A loan is also more consistent with the respondent's submission that while shopping the applicant pressured him to buy things he could not afford. I find this reflects the respondent's understanding that ultimately he, not the applicant, was buying the items, and he was required to reimburse the applicant. With that, I find the applicant advanced the cash for the respondent's snowboard gear purchases as a loan.
17. The applicant says the parties agreed the respondent would repay the balance of the purchases in February 2023. The respondent does not provide an alternative date, so I find the loan is now due and payable.
18. Although the applicant's requested remedies were either a return of the snowboarding gear or repayment, I find the appropriate order is an order for repayment. I say this because the respondent did not express a willingness to return the snowboarding gear, it was selected specifically for the respondent, and there is no evidence about the current condition or location of the gear.

19. From the receipts, I find the pre-tax purchase prices were \$499.99 for the snowboard, \$209.99 for the bindings and \$179.99 for pants (after a \$40 discount the applicant failed to note in their calculations). With 12% tax on those items, the total is \$996.77.
20. How to account for the applicant's offer to contribute \$300 for transportation costs? The offer was made on the expectation that the parties would be travelling up the ski mountain "every weekend." It is undisputed that they only went up 4 times before they had a falling out and the respondent refused to give the applicant further rides up the mountain. On a judgment basis, I deduct \$60 from the loan for transportation costs for those 4 trips. This means the applicant is entitled to \$936.77.
21. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the \$936.77 from March 1, 2023, to the date of this decision. This equals \$28.92.
22. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. The applicant was successful, so I find they are entitled to reimbursement of \$125 in paid CRT fees. Neither party claims dispute-related expenses.

ORDERS

23. Within 21 days of the date of this order, I order the respondent to pay the applicant a total of \$1,090.69, broken down as follows:
 - a. \$936.77 in debt,
 - b. \$28.92 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125.00 in CRT fees.
24. The applicant is entitled to post-judgment interest, as applicable.

25. 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.

Micah Carmody, Tribunal Member