



Civil Resolution Tribunal

Date Issued: November 30, 2023

File: SC-2023-001350

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Amaranth Financial Services Inc. v. Thompson*, 2023 BCCRT 1041

B E T W E E N :

AMARANTH FINANCIAL SERVICES INC.

APPLICANT

A N D :

MONICA THOMPSON

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Nav Shukla

INTRODUCTION

1. This dispute is about an unpaid payday loan. The applicant, Amaranth Financial Services Inc. (Amaranth), seeks payment of \$1,536.06 from the respondent, Monica Thompson. This is made up of \$1,413 as principal, \$103.06 for a finance charge, and \$20 for a dishonoured payment charge. Amaranth also seeks 30% yearly contractual interest on the principal. Amaranth is represented by an employee.

2. Ms. Thompson agrees she owes the claimed amounts. She says she has not been able to make payments because she has not been working but would like to arrange a payment plan. Ms. Thompson is self-represented.
3. For the reasons that follow, I find Amaranth has proven most of its claims.

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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me and that an oral hearing is not necessary.
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.
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.

ISSUE

8. The issue in this dispute is whether I should order Ms. Thompson to pay Amaranth the amount claimed under the terms of their written payday loan agreement.

EVIDENCE AND ANALYSIS

9. As the applicant in this civil proceeding, Amaranth must prove its claims on a balance of probabilities (meaning “more likely than not”). I have read all the parties’ submitted evidence and argument but refer only to what I find relevant to provide context for my decision. I note Ms. Thompson did not provide any documentary evidence, despite having the opportunity to do so.
10. The parties entered into a written payday loan agreement dated March 26, 2022. Under its terms, Amaranth loaned \$1,413 as principal. Ms. Thompson also agreed to pay a “finance charge” of \$211.95, plus \$20 as a service charge for dishonoured cheques or pre-authorized debit transactions. If Ms. Thompson defaulted under the agreement or did not make payment by the repayment date discussed below, the agreement said interest would accrue on the principal after the repayment date at the rate of 2.5% per month until fully repaid.
11. Under the agreement, Ms. Thompson had to repay the principal plus finance charge by May 6, 2022. Specifically, Ms. Thompson agreed to make 2 payments of \$541.65 on April 8 and April 22, and a final payment of \$541.66 on May 6, 2022. It is undisputed that she did not make these payments. Amaranth added the \$20 service charge after Ms. Thompson’s pre-authorized payments did not go through. It is also undisputed that Ms. Thompson made 3 late payments on November 10, November 18, and December 3, 2022, totaling \$350. The agreement says late payments are first applied to any interest and finance charge outstanding, then to any dishonoured cheques or pre-authorized debit charges, and lastly towards the principal. Amaranth says that after accounting for the \$350 in payments, Ms. Thompson still owes the claimed \$1,413 in principal, \$103.06 for the finance charge, and the \$20 dishonoured payment charge, plus contractual interest.
12. I pause to note that in British Columbia, debt collection practices and payday loans are regulated under the *Business Practices and Consumer Protection Act* and the *Payday Loans Regulation*. I find Amaranth charged permissible amounts and Ms. Thompson does not allege otherwise.

13. The amounts Amaranth seeks are undisputed and generally supported by the written agreement. However, as noted above, Amaranth claims 30% yearly contractual interest. Section 4 of the federal *Interest Act* says that when an interest rate is expressed as a rate for a period of less than a year, and the contract does not say the equivalent annual percentage rate, the maximum allowable interest is 5% per year. As noted, under the written agreement, Ms. Thompson agreed to pay late interest on the principal at the monthly rate of 2.5% per month, which equals the claimed 30% yearly interest. However, the parties' agreement did not state a yearly rate. So, I find that Amaranth is only entitled to contractual interest at the yearly rate of 5% per year, calculated from May 7, 2022, the date I find interest started to accrue under the agreement.
14. As I have found that Amaranth is not entitled to the claimed 30% yearly interest, and Amaranth appears to have applied some of Ms. Thompson's \$350 in payments towards interest, I must recalculate the total amount Ms. Thompson owes Amaranth based on the maximum 5% yearly interest rate allowed by section 4 of the *Interest Act*.
15. Neither party provided evidence of how much Ms. Thompson paid on each of the 3 late payment dates mentioned above. So, for the purposes of my calculations, I infer Ms. Thompson made nearly equal payments of \$116.66 on November 10, and \$116.67 on November 18 and December 3, 2022, totaling \$350. Taking these payments into account, with the 5% yearly interest I find Amaranth is entitled to, I find the finance and dishonoured payment charges, along with interest up to December 3, 2022 were paid in full and Ms. Thompson owes Amaranth \$1,335.79 in principal as of December 3, 2022. I find Ms. Thompson also owes 5% yearly contractual interest from December 3, 2022 to the date of judgment, which equals \$66.42.
16. I acknowledge Ms. Thompson's submission about her need to have a manageable payment plan. However, that is an enforcement issue for the parties or perhaps the court, and not for the CRT. I find Amaranth is entitled to an order for payment as set out below.

17. 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 Amaranth was largely successful, I find it is entitled to reimbursement of \$125 in CRT fees. The parties did not claim any dispute-related expenses, so I order none.

ORDERS

18. Within 30 days of the date of this decision, I order Ms. Thompson to pay Amaranth a total of \$1,527.21, broken down as follows:

- a. \$1,335.79 in debt,
- b. \$66.42 in 5% yearly contractual interest, and
- c. \$125 in CRT fees.

19. Amaranth is entitled to post-judgment interest, as applicable.

20. 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.

Nav Shukla, Tribunal Member