



Civil Resolution Tribunal

Date Issued: December 19, 2023

File: SC-2022-010214

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Enex Fuels Ltd. v. Viala*, 2023 BCCRT 1113

B E T W E E N :

ENEX FUELS LTD.

APPLICANT

A N D :

DARLENE VIALA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Megan Stewart

INTRODUCTION

1. Enex Fuels Ltd. (Enex) says its customer, Darlene Viala¹, failed to pay the balance owing on their fuel account. Enex claims \$1,610.18 for the amount outstanding on the account, plus contractual interest. Enex is represented by an employee.

¹ The CRT has a policy to use inclusive language that does not make assumptions about a person's gender. As part of that commitment, the CRT asks parties to identify their pronouns and titles to ensure that the

2. Darlene Viala agrees they owe Enex for the fuel, but says they are bankrupt. Darlene Viala is self-represented.

JURISDICTION AND PROCEDURE

3. 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.
4. 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.
5. 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.
6. 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

7. The issue in this dispute is whether Darlene Viala must pay Enex the claimed \$1,610.18 for the balance owing on their fuel account, plus contractual interest.

CRT respectfully addresses them throughout the process, including in published decisions. Darlene Viala did not provide their title or pronouns, so I will refer to them by their full name and use gender neutral pronouns for them throughout this decision, intending no disrespect.

EVIDENCE AND ANALYSIS

8. In a civil proceeding like this one, Enex, as the applicant, must prove its claims on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and evidence, but refer only to the evidence and argument that I find necessary to explain my decision.
9. Darlene Viala's Dispute Response indicates they agree with Enex's claim description. They did not provide written submissions other than their Dispute Response or submit any documentary evidence, despite the opportunity to do so. The only other thing they say in their Dispute Response is that they are bankrupt. So, I infer Darlene Viala agrees with Enex's account of events in its submissions, briefly summarized below, and its documentary evidence, and I accept them as accurate.
10. Darlene Viala applied for a home heating account with Enex in October 2019. Between November 2019 and June 2021, Enex supplied Darlene Viala with fuel on the terms set out in the application, which I find formed the basis of the parties' contract. A statement of account in evidence shows there is an outstanding balance of \$1,610.18 on Darlene Viala's account. I find Darlene Viala owes Enex this amount.
11. As noted above, Darlene Viala says they are bankrupt. Section 69(1) of the *Bankruptcy and Insolvency Act* says that upon filing a bankruptcy notice of intention, no remedy or action may be taken (or continued) against a bankrupt without leave of the court. However, there is no evidence before me that Darlene Viala has filed an assignment into bankruptcy. Even if Darlene Viala is simply unable to pay, that does not mean Enex is not entitled to an order for a proven debt claim. So, I find Darlene Viala remains responsible for their contractual obligations, and I order them to pay Enex \$1,610.18 for the amount outstanding on their fuel account.

CONTRACTUAL INTEREST, CRT FEES, AND EXPENSES

12. Enex also claims contractual interest on the amount owing. The parties' contract set out an annual interest rate of 26.8% (2% per month compounded monthly) on all

accounts not paid within 30 days of fuel delivery or by the due date on the statement of account, whichever was earlier.

13. Based on the statement of account in evidence, it is unclear to me which fuel delivery date the outstanding amount of \$1,610.18 relates to. So, I cannot calculate contractual interest based on non-payment within 30 days of delivery, even if this is earlier than the due date on the statement of account. In these circumstances, I find I must use the due date on the statement of account, which is September 15, 2023, to calculate contractual interest. I find Enex is entitled to contractual interest on the \$1,610.18 from September 15, 2023 to the date of this decision. This equals \$113.50.
14. 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. I see no reason in this case not to follow that general rule. I find that Enex is entitled to reimbursement of \$125 in CRT fees. Enex did not claim dispute-related expenses, so I order none.

ORDERS

15. Within 30 days of the date of this order, I order Darlene Viala to pay Enex a total of \$1,848.68, broken down as follows:
 - a. \$1,610.18 in debt for unpaid fuel charges,
 - b. \$113.50 in contractual interest, at an annual rate of 26.8%, and
 - c. \$125 in CRT fees.
16. Enex is entitled to post-judgment interest, as applicable.

17. 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.

Megan Stewart, Tribunal Member