



# Civil Resolution Tribunal

Date Issued: February 12, 2024

File: SC-2023-000934

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *AMD Financial Inc. v. Reyes*, 2024 BCCRT 136

BETWEEN:

AMD FINANCIAL INC.

**APPLICANT**

AND:

DANILO MANANSALA REYES and EUFROCINA GARCIA

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Alison Wake

## INTRODUCTION

1. This dispute is about a loan agreement. AMD Financial Inc. (AMD) says Danilo Manansala Reyes and Eufrocina Garcia failed to repay a loan as agreed. AMD claims \$1,317 in unpaid loan principal and non-sufficient funds (NSF) fees, plus contractual interest.

2. Reyes<sup>1</sup> denies responsibility for the loan. They say they did not agree to the loan, and Garcia fraudulently added them to the loan agreement.
3. AMD is represented by an employee. Reyes is self-represented. Garcia did not file a Dispute Response, and so they are in default, discussed further below.

## **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 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
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. 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.
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.
7. Where permitted by CRTA section 118, 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.

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<sup>1</sup> 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 CRT respectfully addresses them throughout the process, including in published decisions. Neither respondent provided their title or pronouns. Without intending any disrespect, I will refer to each respondent by their last name and with gender neutral pronouns throughout this decision.

## **ISSUE**

8. The issue in this dispute is whether the respondents must pay AMD the claimed \$1,317, plus contractual interest, under the loan agreement.

## **EVIDENCE AND ANALYSIS**

9. As the applicant in this civil proceeding, AMD must prove its 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. Reyes did not provide evidence, despite having the opportunity to do so. Garcia is in default, and provided no evidence or submissions.
10. AMD provided a copy of the loan agreement in evidence. It is dated October 7, 2022 and shows AMD as the lender and Reyes and Garcia as the borrowers. The following terms of the loan agreement are relevant:
  - a. The loan principal is \$1,500,
  - b. The loan carries a fixed interest rate of 3% per month, or 36% per year, over 12 payments,
  - c. The respondents agree to make 12 bi-weekly payments of \$147.50 to AMD by pre-authorized debit,
  - d. Each scheduled payment includes \$125 in principal and \$22.50 in interest at 1.5% interest per payment,
  - e. The respondents must repay AMD in full on March 24, 2023,
  - f. The respondents agree to pay an NSF fee of \$48 for any default on payments of interest or principal, and
  - g. If the respondents default on any payment under the agreement, and the default continues after AMD notifies them of it, the principal balance and any unpaid interest are immediately due and payable.

11. The parties agree that Reyes made three bi-weekly payments on the loan, on October 21, November 4, and November 23, 2022. The November 23 payment was for \$155.00 rather than \$147.50. The parties did not explain this discrepancy, but I infer the additional \$7.50 was also applied to interest. So, these payments totaled \$375 in principal and \$75 in interest.
12. AMD's reports show that it attempted to withdraw the December 18 and 30, 2022 and January 13, 2023 payments from Reyes' account, but they were declined. So, AMD says the respondents have defaulted on the loan. AMD claims \$1,125 for the principal balance of the loan, \$192 in NSF fees, and contractual interest.
13. The loan agreement required AMD to notify the respondents of any payment default and the deadline to correct it. While Reyes denies receiving notification of any default, AMD provided copies of demand notices it sent to the respondents by email on December 22, 2022 and January 18, 2023. The notices were sent to Reyes at the same email address they used for this dispute, as well as to Garcia's email address. Both notices included a deadline for payment. On balance, I find AMD notified the respondents of the default as required by the agreement, and so was entitled to treat the balance as due and payable.
14. As noted, Reyes disputes that they signed the loan agreement, and says they are a victim of fraud. They say Garcia added Reyes' name to the agreement without their consent. However, later in submissions they say they were "lured" to sign the loan agreement with the expectation that Garcia would pay.
15. The difficulty for Reyes is that they provided no evidence in support of their fraud allegation. Reyes is listed on the loan agreement as a borrower, and the agreement shows their electronic initials and signature agreeing to the loan terms. As discussed, Reyes also made three payments on the loan, which I find they likely would not have done if they had not agreed to the loan terms.
16. So, I find AMD has proven its claims against Reyes. Nothing in this decision prevents Reyes from filing a separate claim against Garcia for the alleged fraud.

17. As noted, Garcia did not file a Dispute Response. The CRT served the Dispute Notice to Garcia by mail and email on March 3, 2023, in accordance with the CRT Rules. Under CRT Rule 4.1, this means Garcia is in default.
18. In general, where a respondent is in default, the CRT will assume they agree with the applicant's claims. I see no reason here not to follow that general rule. Garcia is listed as a borrower on the loan agreement, and I find they and Reyes are jointly and severally liable to AMD for the debt owing under that agreement. This means AMD may recover the debt from either Reyes or Garcia.
19. So, what is the amount owing? As noted, Reyes' three payments totaled \$375 in principal. This leaves a principal balance of \$1,125 owing from the \$1,500 loan. I find AMD is entitled to \$1,125 in principal.
20. While AMD claimed \$192 for four NSF fees of \$48 each, their submitted evidence only shows three declined withdrawals. So, I find AMD is entitled to \$144 for three NSF fees of \$48 each.
21. I turn to contractual interest. Because the respondents defaulted on the loan, under the agreement AMD is entitled to declare the unpaid principal balance and any accrued interest immediately due and payable. I find AMD did so in its January 18, 2023 demand letter.
22. According to the parties' payment schedule, as of January 13, 2023, the respondents owed \$157.50 in interest. I allow an additional \$8.04 for the five days between January 13 and 18. Taking into account Reyes' payments totaling \$75 in interest, this leaves \$90.54 owing in contractual interest as of the date of AMD's demand.
23. The loan agreement says that AMD is entitled to interest of 36% per year on all outstanding amounts from the date of demand until paid. I find the balance owing as of January 18, 2023 was \$1,125 in principal, \$144 in NSF payments, and \$90.54 in accrued interest. This equals \$1,359.54. AMD is entitled to 36% interest on this amount from January 19, 2023 to the date of this decision. This equals \$521.62.

24. Under CRTA section 49 and the 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 AMD is entitled to reimbursement of \$125 in CRT fees.

## **ORDERS**

25. Within 21 days of this decision, I order the respondents to pay AMD a total of \$2,006.16, broken down as follows:

- a. \$1,359.54 in debt, for \$1,125 in principal, \$144 in NSF fees, and \$90.54 in interest to the demand date,
- b. \$521.62 in contractual interest, and
- c. \$125 in CRT fees.

26. AMD is entitled to post-judgment interest, as applicable.

27. 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.

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Alison Wake, Tribunal Member