



Civil Resolution Tribunal

Date Issued: February 28, 2024

File: SC-2023-000245

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Anglin v. CIBC*, 2024 BCCRT 191

BETWEEN:

LEONARD ANGLIN

APPLICANT

AND:

CANADIAN IMPERIAL BANK OF COMMERCE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. The applicant, Leonard Anglin, holds multiple bank accounts with the respondent, Canadian Imperial Bank of Commerce (CIBC). Mr. Anglin says CIBC improperly withdrew \$4,770.51 from Mr. Anglin's personal account to satisfy a debt. Mr. Anglin seeks repayment of that amount.
2. CIBC says it was entitled to withdraw the funds to satisfy a debt jointly owed by Mr. Anglin and their son, JA.

3. Mr. Anglin represents themselves. CIBC is represented by an authorized employee.

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 that 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. Section 42 of the CRTA says that 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.

Late evidence

8. Mr. Anglin provided their evidence after the evidence submission deadline. CIBC had the opportunity to review and respond to the late evidence, so I find there is no prejudice in allowing it. Consistent with the CRT's flexible mandate, I have allowed and considered this late evidence.

ISSUE

9. The issue in this dispute is whether CIBC owes Mr. Anglin a refund of \$4,770.51.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant Mr. Anglin must prove their claims on a balance of probabilities (meaning “more likely than not”). While I have read all of the parties’ submitted evidence and arguments, I have only addressed those necessary to explain my decision.
11. Mr. Anglin has multiple accounts with CIBC, including a personal banking account and a joint account with their son, JA. Mr. Anglin says they have “never used” the joint account, it was used solely by JA. In December 2021, Mr. Anglin says JA switched banks and stopped using the joint account. However, the joint account was overdrawn at that time, and the overdraft continued to grow as someone was still using the account. Mr. Anglin does not explain why the account was not closed if JA was no longer using it. In any event, although Mr. Anglin argues the ongoing bank account usage was likely fraud, I find there is no evidence to support that assertion. In fact, some of the ongoing transactions included pre-authorized withdrawals for things like health and auto insurance. Additionally, given Mr. Anglin’s statement that he never used the account, I find he would not know whether the charges were authorized, and there is no statement in evidence from JA. On balance I find the charges were not fraudulent, and the joint account holders are responsible for them.
12. CIBC says it contacted both Mr. Anglin and JA to advise them of the growing overdraft and to ask them to bring the account into good standing. It says Mr. Anglin directed CIBC to deal directly with JA, however, it is undisputed JA never responded to CIBC.
13. So, on June 28, 2022, CIBC closed the joint account and converted the amount owing to a demand loan with a balance owing of \$4,773.25, due immediately, with 21% annual interest payable. On July 15, 2022, CIBC withdrew \$4,828.05 from Mr.

Anglin's personal account to satisfy the debt. Mr. Anglin does not explain why they claim \$4,770.51, but I find nothing turns on this difference.

14. Mr. Anglin makes two arguments. First, they say CIBC was not authorized to withdraw funds from their personal account to satisfy the joint account's debt. CIBC disagrees and provided its "Personal Account Agreement" in evidence. The agreement states that by signing the card or opening or using your account, the account holder agrees that they received, read, understood, and agree to the terms in the agreement. Mr. Anglin does not argue they are not bound by the terms.
15. Section 16 of the agreement says that each joint account holder is individually and jointly liable for any amounts owed to CIBC. Section 28 says if any amount is owed to CIBC, CIBC may, without notice to the account holder, set that obligation off from any amount CIBC owes the account holder under the agreement.
16. Here, I find I do not need to decide whether the agreement allowed CIBC to withdraw the amount from Mr. Anglin's personal account. Even if I found that CIBC breached the agreement and must refund Mr. Anglin, CIBC would then be entitled to an equitable set off as Mr. Anglin is a joint account holder individually and jointly responsible for the debt. This would amount to \$0 reimbursed to Mr. Anglin.
17. Further, Mr. Anglin has not argued or claimed any consequential losses resulting from CIBC's withdrawal from their personal account. So, I find there is no point in deciding whether CIBC technically breached the agreement or not.
18. Mr. Anglin's second argument is that the debt should be limited to \$500, which they say was the agreed overdraft limit on the joint account. CIBC says it was within its discretion to increase or decrease this limit, which is supported by section 5 of its "Personal Overdraft Agreement". Again, Mr. Anglin does not deny they are bound by the overdraft agreement's terms. So, I find CIBC was entitled to increase the joint account's overdraft limit, which it did.
19. In summary, I find Mr. Anglin is not entitled to any refund from CIBC. I dismiss their claim.

20. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. Mr. Anglin was not successful, so I dismiss their claim for reimbursement of tribunal fees and dispute-related expenses.

ORDER

21. Mr. Anglin's claims, and this dispute, are dismissed.

Andrea Ritchie, Vice Chair