



Civil Resolution Tribunal

Date Issued: March 25, 2024

File: SC-2023-009946

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Xie v. Heng*, 2024 BCCRT 308

BETWEEN:

MING XIE

APPLICANT

AND:

QIWU HENG

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about a personal loan. The applicant, Ming Xie, loaned the respondent, Qiwu Heng, \$1,000 in December 2022. Mr. Xie says Mr. Heng has failed to repay him. He seeks \$1,000 as repayment for the loan, \$500 in legal fees, and \$1,000 for his time and effort, for a total of \$2,500. Mr. Xie represents himself.

2. Mr. Heng says the \$1,000 was not a loan and instead was a payment so Mr. Heng would not sue Mr. Xie on an unrelated business issue. Mr. Heng denies owing Mr. Xie any money. Mr. Heng also represents himself.

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 that 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 the credibility, or truthfulness, of the other. 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 that the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.
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 to what extent, if any, Mr. Heng owes Mr. Xie the claimed \$2,500.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, the applicant Mr. Xie must prove his 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.

Background

9. The parties are former friends who also had some business dealings together. On December 16, 2022, Mr. Xie loaned Mr. Heng \$1,000. The text messages show this was a personal loan, and Mr. Heng acknowledges in the translated phone conversation he submitted that he borrowed the money from Mr. Xie.
10. Mr. Heng says Mr. Xie essentially forgave the loan as a settlement agreement because Mr. Heng intended to sue Mr. Xie and his company over a business dealing that I will not detail here. So, Mr. Heng says he does not have to pay Mr. Xie back. I disagree. My reasons follow.

Credibility

11. Mr. Xie submitted translated copies of text messages, allegedly translated by Wei Zhou, Certified Translator with the Society of Translators and Interpreters of British Columbia. Mr. Heng argues the translation is incorrect and Mr. Xie fraudulently applied Wei Zhou’s stamp and signature. In support of his allegation, Mr. Heng submitted a letter from Wei Zhou that says they did not translate Mr. Xie’s document, and the applied seal and signature were forged. Mr. Xie does not specifically address Mr. Heng’s allegation and Wei Zhou’s evidence, and instead argues the “focus should be on the nature of the \$1,000 transaction”. Based on this, I do not accept Mr. Xie’s translated evidence, and I find this negatively impacts Mr. Xie’s overall credibility in this dispute.

12. However, that does not end the matter. Mr. Heng also provided a translation of a phone call between Mr. Xie and Mr. Heng, which I discuss below and place significant weight on.

Loan

13. In Mr. Heng's translated evidence, he acknowledges several times that he borrowed the \$1,000 from Mr. Xie and would pay him back "when this lawsuit is over", presumably referring to Mr. Heng's lawsuit against Mr. Xie's company. There is no indication Mr. Heng ever started an action against Mr. Xie personally. Repeatedly, Mr. Xie tells Mr. Heng he is not personally responsible for the company's actions, and asks to be repaid.

14. As the person alleging a settlement agreement, Mr. Heng must prove that the parties reached an agreement and what its terms were. To the extent Mr. Heng argues Mr. Xie agreed to pay him \$1,000 as a settlement to prevent Mr. Heng from suing him personally, I find the evidence falls short of proving that. At best, Mr. Xie references agreeing to "settle privately", but then argues Mr. Heng sued anyway. I find there is insufficient evidence that Mr. Xie agreed to give Mr. Heng \$1,000 as any kind of settlement. I find Mr. Heng must repay the \$1,000 he undisputedly borrowed from Mr. Xie.

Legal Fees & Time Spent

15. Mr. Xie also claims \$500 in legal fees and \$1,000 for his time spent pursuing this matter. I dismiss these claims. First, Mr. Xie did not provide any evidence he paid any legal fees. Second, the CRT generally does not award compensation for a party's inconvenience and time spent on issues in a dispute. I see no reason to depart from that general rule.

16. To the extent Mr. Xie claims the time spent as a dispute-related expenses, I would dismiss this claim as well. CRT rule 9.5(5) says the CRT will not order one party to pay another for time spent dealing with the dispute unless there are extraordinary circumstances, which I find do not apply here.

17. Mr. Xie is entitled to pre-judgment interest on the \$1,000 under the *Court Order Interest Act*. Calculated from January 15, 2023, the date he says he was supposed to be repaid, this equals \$57.42.
18. 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. Although the parties were each partially successful, neither party paid any tribunal fees or claimed dispute-related expenses, except as addressed above.

ORDERS

19. Within 21 days of the date of this decision, I order Mr. Heng to pay Mr. Xie a total of \$1,057.42, broken down as follows:
 - a. \$1,000 in debt, and
 - b. \$57.42 in pre-judgment interest under the *Court Order Interest Act*.
20. I dismiss Mr. Xie's remaining claims.
21. Mr. Xie is also entitled to post-judgment interest, as applicable.
22. This is a validated decision and order. 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.

Andrea Ritchie, Vice Chair