



Civil Resolution Tribunal

Date Issued: September 11, 2024

Files: SC-2023-007080
and SC-2023-008910

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Haskell v. Youd*, 2024 BCCRT 890

B E T W E E N :

JASMINE DAWN HASKELL

APPLICANT

A N D :

ERIC RANDAL YOUD

RESPONDENT

A N D :

JASMINE DAWN HASKELL

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Nav Shukla

INTRODUCTION

1. This decision is about 2 linked disputes between former romantic partners which I find are a claim and counterclaim. So, I have issued a single decision for both disputes.
2. From May 2022 to December 2022, Jasmine Dawn Haskell and Eric Randal Youd were in a relationship and living together. In dispute SC-2023-007080, Ms. Haskell says that months after the relationship ended, Mr. Youd took items that belonged to her and her children, including a pet chameleon. She seeks orders that Mr. Youd return the chameleon along with its enclosure and supplies and that he pay her \$4,000 for the replacement cost of other items he took from her home. Ms. Haskell also says that Mr. Youd agreed to pay her \$1,000 for damage he caused to her home, so she seeks this amount as well.
3. Mr. Youd says that he only took back what belongs to him and that he never agreed to pay Ms. Haskell \$1,000 for the alleged damage. In dispute SC-2023-008910, Mr. Youd claims Ms. Haskell still has items that belong to him and that she still owes him for items he paid for that she purchased for her children. Mr. Youd seeks orders that Ms. Haskell return some of the items and pay 50% of the fair market value of other items. Mr. Youd also seeks an order that Ms. Haskell pay him \$726.06 for the children's items he paid for.
4. Both parties are self-represented.

JURISDICTION AND PROCEDURE

5. 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 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.

6. 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. In some respects, the parties in this dispute call into question each other's credibility, or truthfulness. While credibility issues can in some cases be resolved by an oral hearing, the advantages of an oral hearing must be balanced against the CRT's mandate to resolve disputes in an accessible, speedy, economical, informal and flexible manner (see *Downing v. Strata Plan VR2356*, 2023 BCCA 100, at paragraph 47). Here, neither party asked for an oral hearing, and the parties mainly rely on documentary evidence in support of their claims. Overall, I find that the benefit of an oral hearing does not outweigh the efficiency of a hearing by written submissions, so I have decided these disputes on the written materials.
7. 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 court.
8. Where permitted by section 118 of the CRTA, in resolving these disputes 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.

Preliminary issues

9. First, as mentioned, this decision is about 2 linked disputes. The separate dispute numbers are due to the CRT's handling of the parties' dispute applications. However, as noted above, I find the 2 disputes are a claim and counterclaim. So, in making my decision about the parties' claims, I have relied on the evidence and submissions submitted in these disputes as a whole.
10. Second, in the dispute notice for SC-2023-007080, Ms. Haskell alleges that she and Mr. Youd were spouses under the *Family Law Act* (FLA). The CRT has no jurisdiction (legal authority) over the division of family property or debts under the FLA. Given Ms. Haskell's position that the parties were spouses, a former CRT vice chair considered whether the CRT has jurisdiction over these 2 linked disputes. In a

November 8, 2023 preliminary decision, the former vice chair found that the parties had not lived together continuously for 2 years and so were not spouses under the FLA. The former vice chair concluded that the FLA does not apply and the CRT has jurisdiction to hear these small claims disputes under CRTA section 118. I agree with the former vice chair's reasoning in the preliminary decision and find the CRT has authority to decide these disputes under its small claims jurisdiction over debt and damages and claims over personal property.

11. Next, I note that in SC-2023-007080, Ms. Haskell essentially asks that Mr. Youd pay her a total of \$5,000 and return the chameleon, its enclosures and supplies. The CRT's monetary limit in its small claims jurisdiction is \$5,000. I find together the total value of Ms. Haskell's claims is over \$5,000. Prior CRT decisions have found that the CRTA does not prevent a party from providing evidence about debt and damages above \$5,000. It only prevents the CRT from ordering payment over \$5,000 (see, for example, *Super Save Disposal Inc. v. Royal Window Fashions Ltd.*, 2024 BCCRT 634 at paragraph 9). While prior CRT decisions are not binding on me, I agree with this reasoning and apply it here. So, although Ms. Haskell's total claims are over \$5,000, I find I have jurisdiction to decide them.
12. Finally, in the dispute notice for SC-2023-008910, Mr. Youd claims 2 remedies in addition to those mentioned above. Specifically, Mr. Youd claims he had a 50% interest in Ms. Haskell's personal property and that Ms. Haskell was also responsible for 50% of the debt he incurred during the parties' cohabitation. However, in his later written submissions, Mr. Youd says he withdraws these 2 claims. Under CRT rule 6.1, a party can ask a tribunal member for permission to withdraw one or more of their claims after the dispute has been assigned for adjudication. As I find there is no prejudice to Ms. Haskell, I see no reason not to allow Mr. Youd to withdraw these 2 claims. I address the parties' remaining claims below.

ISSUES

13. The issues in these disputes are:

- a. Did Mr. Youd unlawfully take the chameleon and other items that allegedly belong to Ms. Haskell? If so, what remedies are appropriate?
- b. Does Mr. Youd owe Ms. Haskell \$1,000, or some other amount, for damage to her home?
- c. Has Ms. Haskell unlawfully kept items that belong to Mr. Youd? If so, what remedies are appropriate?
- d. Must Ms. Haskell repay Mr. Youd \$726.06 for the children's items?

EVIDENCE AND ANALYSIS

14. In a civil proceeding like this one, Ms. Haskell as the applicant must prove her claims on a balance of probabilities, meaning more likely than not. Mr. Youd must prove his counterclaim to the same standard. I have considered all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.

Background

15. Between May 2022 and December 2022, the parties lived together in Ms. Haskell's home with Ms. Haskell's 4 children. Mr. Youd moved out sometime in early December 2022. At the time, he left many of his belongings behind, including his Xbox, various televisions, sectional sofa, deep freezer, and other furniture. In early July 2023, Mr. Youd removed various items from Ms. Haskell's home, including a pet chameleon. Mr. Youd sold the chameleon in a private sale to a third party on July 6, 2023.

16. With these background facts in mind, I turn to the parties' respective claims, starting first with Ms. Haskell's claims.

Ms. Haskell's claims

Did Mr. Youd unlawfully take the chameleon and other items that allegedly belong to Ms. Haskell?

17. Ms. Haskell says that Mr. Youd wrongfully took the chameleon from her home, along with various other items. In the dispute notice for SC-2023-007080, Ms. Haskell seeks the chameleon's return. However, in her later written argument, Ms. Haskell asks for compensation instead since Mr. Youd sold the chameleon.
18. Although Ms. Haskell does not use this word, I find she claims that Mr. Youd committed the tort of conversion. Conversion is when a person wrongfully handles, disposes of, or destroys another person's personal property in a way that is not consistent with the owner's rights (see *Li v. Li*, 2017 BCSC 1312 at paragraphs 213 and 214). In law, pets are considered personal property.
19. In *Almaas v. Wheeler*, 2020 BCPC 51, the BC Provincial Court reviewed the law governing competing pet ownership claims. It said the factors to consider in determining ownership include who purchased and selected the pet, whether it was purchased as a gift, who attended its veterinary appointments, who paid for the pet's needs, and how the parties viewed ownership. Other factors courts have considered include who bore the burden of the pet's care and comfort, agreements about ownership when the pet was acquired or after, and what happened to the pet after the parties' relationship changed (see *MacDonald v. Pearl*, 2017 NSSM 5). The list is not exhaustive, and no single factor is determinative, although some carry more weight than others.
20. Ms. Haskell does not deny that Mr. Youd paid for the chameleon, the chameleon's enclosure, and other supplies during the time the parties cohabited. However, she says that the two of them purchased the chameleon together for her 10-year-old child. It is undisputed that the parties and Ms. Haskell's child attended the pet store to purchase the chameleon on September 26, 2022. Text messages in evidence show that prior to the purchase, Ms. Haskell's child had been asking her for a pet.

Ms. Haskell and her children were the ones that generally cared for the chameleon during the parties' cohabitation. After Mr. Youd moved out in December 2022, the chameleon stayed in Ms. Haskell's home and she and her children continued to care for it, including taking it to the veterinarian and paying for its food and medicine. After their separation, Mr. Youd occasionally took care of the chameleon at Ms. Haskell's request when she and her children were away.

21. Other than Mr. Youd paying for the chameleon, its enclosure and supplies during the time he lived with Ms. Haskell, I find there is very little other evidence to support a finding that Mr. Youd had an ownership interest in the chameleon. Mr. Youd does not say that he had any emotional attachment to the chameleon, nor does he say that he did much to care for it while the parties lived together, other than cleaning the chameleon's enclosure once.
22. However, Mr. Youd alleges that Ms. Haskell told him to take the chameleon. Text messages in evidence show that once in December 2022 and once in June 2023, Ms. Haskell suggested she may be ready for Mr. Youd to take possession of the chameleon, or that the chameleon was "his pet". However, there is no suggestion in the text messages between the parties that Mr. Youd ever had any intention of keeping the chameleon for himself. Nor is there any evidence that Mr. Youd ever asked for the chameleon back after he moved out. On balance, I am satisfied that although Mr. Youd paid for the chameleon, he asserted no ownership interest in it and purchased it instead as a pet for Ms. Haskell and her children. By taking and selling the chameleon in July 2023, I find Mr. Youd committed the tort of conversion.
23. As the chameleon can no longer be returned to Ms. Haskell, I find the appropriate remedy for Mr. Youd's conversion is damages. Ms. Haskell did not provide any clear evidence about how much the chameleon, its enclosure, and supplies that Mr. Youd took were worth. Credit card statements in evidence show that Mr. Youd spent \$369.75 at PetSmart on September 26, 2022. I infer most of this amount was likely for the chameleon, its enclosure and supplies. In the absence of any other

evidence, and on a judgment basis, I award Ms. Haskell \$300 in damages for Mr. Youd's conversion of the chameleon.

24. Next, Ms. Haskell seeks \$4,000 for half the replacement cost of other items she says Mr. Youd took from her home. These include smart lightbulbs, a sectional sofa, a 40 to 50-inch television, an 80-inch television, 1 tall dresser, 1 long dresser, a television stand, a surround sound system, a glass flat top barbeque, 2 garage shelves, and an Xbox series X with games and a pass. Ms. Haskell does not dispute that Mr. Youd paid for these items but says that he gifted them to her and her children when he left in December 2022. As the person alleging a gift, Ms. Haskell bears the burden of proving it. She must show that Mr. Youd intended to gift these items in a way that is inconsistent with any other intention or purpose (see *Pecore v. Pecore*, 2007 SCC 17 and *Lundy v. Lundy*, 2010 BCSC 1004).
25. Ms. Haskell relies on a December 13, 2022 text message exchange between her and Mr. Youd. It is undisputed that Mr. Youd had taken little with him when he moved out as he did not have permanent alternate accommodations sorted out. In these messages, Mr. Youd said that he did not need a lot of the items he had brought into Ms. Haskell's home. He said that Ms. Haskell's children were his main motivation for "stuff staying there", noting that the Xbox, televisions, and sofa were things her children used often. However, Mr. Youd went on to suggest that he was concerned about leaving his belongings with Ms. Haskell, in case the relationship between them soured further.
26. Ms. Haskell's evidence also includes statements from 2 of her children who say that Mr. Youd told them that the Xbox "would stay" and that Mr. Youd had purchased a new Xbox so he did not have to take the Xbox from them. It is unclear exactly when these alleged conversations took place. In any event, I find these conversations and the remainder of the evidence fails to establish that Mr. Youd intended to permanently and unequivocally gift the Xbox or the other items to Ms. Haskell and her children. Rather, given Mr. Youd's repeated request in the text messages to try and coordinate moving the remainder of his items from Ms. Haskell's home, I find it

more likely than not that Mr. Youd intended to leave these items with Ms. Haskell temporarily, while he found a new place to live, and to give Ms. Haskell time to find replacement items for herself.

27. So, since Ms. Haskell does not dispute that these items originally belonged to Mr. Youd, and since she has not proven that he gifted these items to her, I dismiss this part of her claim. However, Ms. Haskell says, and Mr. Youd does not dispute, that when he took the Xbox, one of the games she bought for her children was in it. The evidence shows Ms. Haskell paid \$55.99 for this game on December 23, 2022. I find Mr. Youd committed the tort of conversion when he took the Xbox without first removing the game. So, I order Mr. Youd to pay Ms. Haskell \$55.99 in damages for the game.

Does Mr. Youd owe Ms. Haskell \$1,000, or some other amount, for damage to her home?

28. Finally, Ms. Haskell also claims \$1,000 for damage Mr. Youd allegedly caused while moving in and out of her home. Ms. Haskell says that Mr. Youd agreed to cover the cost of the damage deposit that she paid to her landlord as compensation for the damage.
29. Ms. Haskell also appears to argue that Mr. Youd owes her the \$1,000 because he was a party to the rental contract between her and her landlord. However, I find this unproven. The rental contract in evidence shows Ms. Haskell as the only tenant that was party to the agreement.
30. I also find it unproven that Mr. Youd specifically agreed to pay Ms. Haskell \$1,000 for the damage. Text messages in evidence from May 21, 2023 show that Mr. Youd acknowledged he would owe Ms. Haskell something for the damage, to which Ms. Haskell replied that “there is no way”, and that her ex-husband had done “a bunch too”. Mr. Youd responded that when she moved, if her landlord “made a fuss”, to let him know. Ms. Haskell responded that Mr. Youd should not worry about such things as they are so far away. Based on these messages, I find there was no binding agreement for Mr. Youd to pay Ms. Haskell a specific amount for the damage.

31. Next, while I find photographs in evidence show areas of Ms. Haskell's home with some scratches, scuffs, and dents, all of these areas of damage are relatively minor and appear to be in the nature of the normal wear and tear you would expect in a home where someone has lived for multiple years. Ms. Haskell does not say that she has incurred any costs to fix the minor damage and appears to base her claim on the assumption that her landlord will keep her damage deposit when she moves out because of this damage. However, given the nature of the damage, I find it is very possible that her landlord will not deduct any amounts from her damage deposit. Further, it is unclear what other damage may have already been caused or may be caused in the future by Ms. Haskell's family.
32. On balance, I find it unproven that Ms. Haskell has or will incur any loss or expense because of any damage Mr. Youd caused. So, I dismiss this part of her claim.

Mr. Youd's counterclaim

Has Ms. Haskell unlawfully kept items that belong to Mr. Youd?

33. I turn now to Mr. Youd's counterclaim, starting first with his request that Ms. Haskell return his deep freezer, a television stand, and knife set to him. Receipts in evidence show that Mr. Youd purchased the deep freezer and television stand well before he moved into Ms. Haskell's home, which Ms. Haskell does not dispute. However, Ms. Haskell says she has kept these items because Mr. Youd gifted them to her and her children.
34. Text messages from June 30, 2023 show that Mr. Youd attempted to coordinate with Ms. Haskell to remove some of his belongings from her home, and potentially swap some of his items out with other items for Ms. Haskell to keep. Ms. Haskell dismissed the idea, and Mr. Youd proposed they both make a list of items that they would like to stay with Ms. Haskell. Mr. Youd went on to say that he would be okay with the freezer, television stand, and some other items to stay with Ms. Haskell, but he would like to come and collect the rest of his belongings. Ms. Haskell responded with an expletive, dismissing Mr. Youd's offer.

35. Contrary to Ms. Haskell's assertions, I find these text messages do not show that Mr. Youd gifted the deep freezer and television stand to her. Rather, I find he made a proposal in an effort to negotiate the return of his other belongings, and Ms. Haskell rejected the proposal. Under the circumstances, I find Ms. Haskell has no ownership interest in the freezer or television stand. By now asserting that she is entitled to keep the items, I find Ms. Haskell is liable in conversion. So, I order Ms. Haskell to return the freezer and television stand to Mr. Youd.
36. As for the knife set, Ms. Haskell says that the parties purchased it together when they previously cohabited in 2019. Mr. Youd says he purchased the knife set while he was living alone. Mr. Youd did not provide any evidence about the knife set's purchase. So, it is unclear who purchased and paid for the knife set. Under the circumstances, I find Mr. Youd has not proven that the knife set belonged to him and that Ms. Haskell has wrongfully kept it. As a result, I decline to order Ms. Haskell to return the knife set and I dismiss this part of Mr. Youd's counterclaim.
37. In her written argument, Ms. Haskell says that she has additional items that belong to Mr. Youd still in her home such as his clothing and baby blanket. In his written argument, Mr. Youd seeks these items' return as well. Though Mr. Youd did not include these items in the counterclaim dispute notice, I find Ms. Haskell has had an opportunity to respond to this claim. Given that, and the CRT's mandate which includes efficiency and flexibility, I find it appropriate to decide this claim as part of Mr. Youd's counterclaim. So, I order Ms. Haskell to return these items to Mr. Youd as well.
38. Next, Mr. Youd seeks compensation for some items he purchased while the parties were living together in 2022. Specifically, Mr. Youd says that he paid for a gazebo, SodaStream, and Xbox hard drives which Ms. Haskell has undisputedly kept. Ms. Haskell does not deny that Mr. Youd paid for these items but says she is entitled to keep them because Mr. Youd purchased them while they lived together. The evidence before me fails to establish that the parties had any binding agreement that Ms. Haskell would keep these items on the parties' separation. As the party

who purchased and paid for the items, I find Mr. Youd is the proper owner. As Ms. Haskell has again asserted that she is entitled to keep these items, I find she is liable in conversion.

39. Based on credit card statements in evidence, I find Mr. Youd likely paid \$524.98 for the gazebo and \$188.68 for the SodaStream. In the counterclaim dispute notice, Mr. Youd claims 50% of the value of these items. In his later written argument, he says he is entitled to the full value, but that he will accept \$500 for the gazebo, SodaStream and Xbox hard drives. As Mr. Youd did not amend the counterclaim dispute notice to seek a higher amount, I find it appropriate to award him 50% of the amount he paid for the gazebo and SodaStream. This equals \$356.83. Although Ms. Haskell does not deny that Mr. Youd paid for the Xbox hard drives, it is unclear from the evidence how much they are worth. So, on a judgment basis, I award Mr. Youd \$20 for the hard drives.

Must Ms. Haskell repay Mr. Youd \$726.06 for the children's items?

40. Mr. Youd says he also paid \$726.06 for sporting equipment and Apple AirPods for Ms. Haskell's child, which she has failed to repay him for. Ms. Haskell does not dispute that Mr. Youd paid for these items for her child, nor does she dispute the items' claimed cost. Instead, Ms. Haskell says that she offered to reimburse Mr. Youd for these items but he insisted she owed him "everything from May to December 2022". She also appears to argue that Mr. Youd gifted these items to her child. I find the evidence does not show that Mr. Youd gifted these items to Ms. Haskell or her child, or that there was any agreement that Ms. Haskell would not need to reimburse Mr. Youd for them. So, I find that Mr. Youd is entitled to the claimed \$726.06 from Ms. Haskell for the sporting equipment and AirPods. I order Ms. Haskell to pay Mr. Youd this amount.

Summary

41. I have found above that Mr. Youd owes Ms. Haskell \$355.99 in damages for conversion. I have also found that Ms. Haskell owes Mr. Youd \$376.83 in damages

for conversion and \$726.06 in debt for the sporting equipment and AirPods. Taking into account the \$355.99 Mr. Youd owes Ms. Haskell in damages, the net result is that I order Ms. Haskell to pay Mr. Youd \$20.84 in damages for conversion and \$726.06 in debt.

42. I also order Ms. Haskell to return the deep freezer, television stand, his clothing, and baby blanket to Mr. Youd on the terms set out further below.

Interest, CRT fees, and expenses

43. The *Court Order Interest Act* applies to the CRT. I find Mr. Youd is entitled to pre-judgment interest on the \$20.84 in damages and \$726.06 in debt from December 31, 2022 (a date I find reasonable), to the date of this decision. This equals \$61.91.
44. 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. As the more successful party, I find Mr. Youd is entitled to \$125 for his paid CRT fees. Mr. Youd also claims \$89.99 in dispute-related expenses for iMazing software that he purchased on August 18, 2023 to sort through and consolidate relevant text messages that he submitted in this dispute. I find the consolidated text messages were useful and the claimed \$89.99 is reasonable. So, I award Mr. Youd \$89.99 in dispute-related expenses as well. I dismiss Ms. Haskell's claim for reimbursement of CRT fees.

ORDERS

45. Within 30 days of the date of this decision, I order Ms. Haskell to pay Mr. Youd a total of \$1,023.80, broken down as follows:
 - a. \$726.06 in debt,
 - b. \$20.84 in damages for conversion,
 - c. \$61.91 in pre-judgment interest under the *Court Order Interest Act*, and

- d. \$214.99 for \$125 in CRT fees and \$89.99 in dispute-related expenses.
46. Mr. Youd is entitled to post-judgment interest, as applicable.
47. Within 30 days of the date of this decision, I also order Ms. Haskell to make available to Mr. Youd his deep freezer, television stand, clothing, and baby blanket, according to the following orders:
- a. Mr. Youd or his agent must give Ms. Haskell at least 3 days' written notice of a reasonable time and date that is within 30 days of the date of this decision when he or his agent will pick up the above-noted items.
 - b. Mr. Youd or his agent must pick up the items from Ms. Haskell's address indicated in the dispute notice for SC-2023-007080, at the time and date specified in the written notice given under the order above, unless the parties agree to a different pick-up location in writing.
48. I dismiss the parties' remaining claims.
49. 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.

Nav Shukla, Tribunal Member