



Civil Resolution Tribunal

Date Issued: November 15, 2024

File: SC-2023-008639

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Cook v. Drury*, 2024 BCCRT 1157

BETWEEN:

ANDREW ALEXANDER COOK

APPLICANT

AND:

DANISHA DRURY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Jeffrey Drozdiak

INTRODUCTION

1. This dispute is about a co-owned boat.
2. The applicant, Andrew Alexander Cook, and the respondent, Danisha Drury, are former romantic partners who bought a boat during their relationship. After they separated, Mr. Cook says the respondent stopped paying the shared expenses for

the boat. Mr. Cook claims \$2,654.80 for what he says the respondent owes towards “mortgage” and moorage payments.

3. In this dispute, Mr. Cook refers to the loan payments for the boat, as “mortgage” payments. It is unclear from the evidence before me whether the parties granted a mortgage to the lender when borrowing the money to buy the boat. So, I will simply refer to “mortgage” payments as loan payments in my decision.
4. Danisha Drury says Mr. Cook refused to cooperate in selling the boat and he breached their agreement. So, the respondent says they gifted the boat to Mr. Cook, and they are not responsible for any further expenses.
5. The parties are self-represented. Danisha Drury did not provide pronouns or a title on request, so I respectfully refer to them as the respondent and use “they” in this decision.

JURISDICTION AND PROCEDURE

6. 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.
7. CRTA section 39 says the CRT has discretion to decide the hearing’s format, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, the parties call into question the credibility, or truthfulness, of the other’s evidence. Under the circumstances, I find that I am properly able to assess and weigh the evidence and submissions before me. In *Downing v. Strata Plan VR2356*, 2023 BCCA 100, the court recognized that oral hearings are not necessarily required where credibility is in issue. Neither party requested an oral hearing. So, bearing in mind the CRT’s mandate is for proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.

8. 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.
9. 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.

Preliminary Issue – Jurisdiction

10. The parties agree that they bought the boat during their romantic relationship. So, through CRT staff, I asked the parties to provide further submissions about their relationship, including when they started dating, when they moved into together or started living in a marriage-like relationship, and when they separated.
11. This is important because if the parties lived together in a marriage-like relationship for at least two years, they are considered “spouses” under the *Family Law Act* (FLA). Under the FLA, property, such as the boat, owned by a spouse on the date of separation is “family property”. Any debts, including debts for the boat, owed by a spouse on the date of separation is “family debt”. Disputes about the division of family property and family debt are within the exclusive jurisdiction of the BC Supreme Court under FLA section 94.
12. In submissions, both parties agree that they met in June 2019. The parties moved in together in March 2021, and they separated in October 2022. Since the parties were not living together in a marriage-like relationship for more than two years, I find they were not spouses under the FLA. So, I find the CRT has jurisdiction to decide this dispute.

Preliminary Issue – Unrelated Evidence

13. The respondent provided evidence and submissions about Mr. Cook’s allegedly harassing behaviour after the parties broke up. Since this dispute is about an alleged breach of contract to share boat expenses, I find these materials are not

relevant to the issues I must decide. So, I place no weight on these materials and make no findings about them.

ISSUES

14. The issues in this dispute are:

- a. Is the respondent responsible for any further boat expenses?
- b. If so, how much must the respondent pay Mr. Cook?

EVIDENCE AND ANALYSIS

15. In a civil proceeding like this one, Mr. Cook, as the applicant, must prove his 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 relevant to provide context for my decision.

Background

16. On May 11, 2021, the parties signed an agreement with a broker to buy a 1999 Four Winns 278 Vista boat.

17. On June 3, 2021, the parties completed the purchase. Both parties signed a motor vehicle purchase agreement with Sea to Sky Motorsports 2016 Inc. (Motorsports) for the boat. The purchase price was \$52,000, plus applicable fees and taxes. The parties paid a \$15,000 deposit and received financing from the Royal Bank of Canada for the balance of \$45,592.76.

18. Mr. Cook also signed a motor vehicle purchase agreement with Motorsports for the boat engine. The purchase price was \$15,000, plus applicable fees and taxes. Mr. Cook received financing from the Toronto-Dominion Bank for the total amount of \$17,587.95. Mr. Cook does not say why the respondent did not sign this agreement.

In any event, nothing turns on this given my conclusion below that the parties agreed to share the loan payments.

19. On March 30, 2022, the parties signed a moorage agreement with Brentwood Bay Marina to moor the boat. The parties agreed to pay \$493.59 per month for a term from April 1, 2022 to April 1, 2023.
20. As noted, in March 2023 the parties separated. On April 10, 2023, the parties signed a broker agreement with Yacht Sales West to market and sell the boat for a period of 90 days. In mid-June 2023, the parties disagreed about how to sell the boat. So, on June 27, 2023, the respondent emailed Mr. Cook saying they were gifting him the boat.
21. On July 4, 2023, the broker emailed the parties saying there had been little activity in the past week on selling the boat. So, on July 10, 2023, Mr. Cook contacted the brokers and ended the broker agreement. In October 2023, Mr. Cook says he moved the boat from the Brentwood Bay Marina and put it on blocks in his yard.
22. Mr. Cook says he continues to pay the monthly expenses for the boat. The respondent has undisputedly not paid any expenses since May 2023.

Is the Respondent Responsible for Any Further Boat Expenses?

23. Mr. Cook argues the parties had an agreement to share boat expenses, and the respondent should pay their share. The respondent argues they gifted the boat to Mr. Cook, and they are no longer responsible for the payments. They also claim Mr. Cook refused to cooperate in selling the boat.

Did the Parties Have an Agreement to Share Boat Expenses?

24. I will start by deciding if the parties had an agreement to share boat expenses.
25. As noted, both parties signed the purchase agreement for the boat. So, I find the parties bought the boat together. Mr. Cook says the lender and the marina were unable to split the payments 50/50. So, he claims the parties had a verbal

agreement that payments would come from his account, and the respondent would reimburse him monthly.

26. The respondent does not dispute the parties had an agreement to share boat expenses. In evidence, the respondent provided an e-Transfer receipt from May 9, 2023, which they labelled, “last e-transfer payment to Alex Cook for the boat.” The receipt shows the respondent paid Mr. Cook \$530.76 for boat expenses.
27. Based on Mr. Cook’s evidence on outstanding expenses, I infer that the amount the respondent transferred was for their share of the monthly loan (\$240.96) and moorage (\$289.80) payments. I note there is no moorage contact in evidence for a term after April 1, 2023. However, I infer from the respondent’s e-Transfer that the parties agreed to extend the moorage term and pay \$579.60 per month.
28. Overall, based on the e-Transfer receipt, and the parties’ co-ownership of the boat, I find the parties agreed to equally share the loan and moorage payments.

Did the Respondent Gift the Boat to Mr. Cook?

29. I now turn to whether the respondent gifted the boat to Mr. Cook. There are three conditions for a gift to be valid and enforceable (see *Blom v Blom*, 2021 BCSC 181 at paragraph 82):
 - a. An intention by a party to give the property without receiving any compensation in return,
 - b. An acceptance of the gift by the receiving party, and
 - c. A sufficient act of delivery, or transfer of the property, to complete the transaction.
30. I accept that the respondent intended to give the boat to Mr. Cook without receiving any compensation in return. However, I find the respondent has not satisfied the other two requirements for giving a gift.

31. Based on Mr. Cook's submissions, I infer that he did not accept the respondent's gift. Mr. Cook says the market has dropped since they bought the boat. He claims that if they sold the boat, they likely would not make enough money to pay off their loans. In these circumstances, I find it unlikely that someone would accept a gift, and the associated loan payments, for an item with allegedly no value.
32. There is also no evidence before me, such as transfer papers, showing that the respondent transferred ownership of the boat to Mr. Cook. There are emails in evidence from Mr. Cook's lawyer trying to negotiate a transfer. However, no agreement was reached. Without legally transferring the boat, I find the gift was not valid and not legally enforceable.

Did Mr. Cook Breach the Parties' Agreement?

33. Finally, I turn to the respondent's claim that Mr. Cook refused to cooperate in selling the boat. The respondent argues they should not pay for the boat under these circumstances. From this, I infer the respondent argues Mr. Cook breached their agreement and they are no longer liable for any expenses.
34. In support, the respondent refers to the broker agreement with Yacht Sales West. In the agreement, the parties granted exclusive rights to the brokers to sell the boat. The parties also agreed not to control or direct the services provided by the brokers.
35. The respondent says the brokers sell boats out of the Sidney Marina, which has a large foot traffic for potential buyers to view the boat. In comparison, the respondent says the Brentwood Bay Marina was behind a locked gate with no foot traffic. The respondent says in mid-June 2023, they asked Mr. Cook to move the boat to the Sidney Marina, but he refused. They argue Mr. Cook's refusal prevented them from selling the boat.
36. To support their claim, the respondent provided a July 24, 2024 statement from their father, AD. In the statement, AD refers to what the brokers suggested about the Sidney Marina. Notably, AD does not say that they spoke to the brokers directly. So, I find AD likely repeated what the respondent had told them. As the respondent's

father, I also find AD is not an impartial witness. For these reasons, I place no weight on AD's statement.

37. The respondent's argument relies on a clause in the broker agreement that refers to the brokers' services. However, they did not provide a statement from the brokers saying what services were provided, and how Mr. Cook directed or controlled those services. I find that evidence from the brokers is crucial in proving Mr. Cook's actions prevented the parties from selling the boat. Without this evidence, I find the respondent has not proven Mr. Cook breached the broker agreement.
38. The respondent also alleges Mr. Cook used the boat for personal use, which they say was against what the brokers had recommended. In support, the respondent provided four pictures that they claim show Mr. Cook using the boat. Mr. Cook denies using the boat for personal use.
39. I accept that using the boat could be an issue, as it increases the chances of the boat being damaged. However, I find the respondent's pictures do not support their allegation. Two pictures do not show the boat at all, while the other two pictures show the boat moored. The boat pictures also have dates of July 16 and July 31, but do not say which year they were taken. Without more, I find the respondent has not proven Mr. Cook was using the boat for personal use.
40. Overall, I find the respondent has failed to prove Mr. Cook breached their agreement. So, I find the respondent is liable for the boat's shared expenses.

How Much Must the Respondent Pay Mr. Cook?

41. Mr. Cook claims that the respondent owes him \$2,654.80 for moorage and loan payments.
42. In support, Mr. Cook provided two screenshots of a spreadsheet summarizing expenses. The respondent did not dispute this evidence. So, I accept it accurately shows the shared expenses. The first screenshot shows expenses for July to October 2023, while June and November are partially cut off. The second

screenshot shows expenses for January to June 2024. Although the total amount owing reads \$5,604.22, Mr. Cook only claimed \$2,654.80 in this dispute. So, I find his claim is limited to that amount.

43. In his screenshots, Mr. Cook also included expenses for boat insurance, moving the boat to his property, bottom paint, and advertising. Since Mr. Cook did not claim any of these expenses in his Dispute Notice, I find these expenses are not properly before me, and I refuse to consider them.
44. After reviewing Mr. Cook's expense screenshots, I find it unclear how Mr. Cook calculated a claim amount of \$2,654.80. In any event, I find the listed loan and moorage payments exceed that amount. Given this, I find Mr. Cook is entitled to:
 - a. \$530.76 for June 2023's loan and moorage payments.
 - b. \$530.76 for July 2023's loan and moorage payments.
 - c. \$530.76 for August 2023's loan and moorage payments.
 - d. \$530.76 for September 2023's loan and moorage payments.
 - e. \$240.96 for October 2023's loan payment.
 - f. \$240.96 for November 2023's loan payment.
 - g. \$49.84 towards January 2024's loan payment.

Conclusion

45. In conclusion, I find Mr. Cook has proven that the respondent breached their agreement for shared expenses. So, I order the respondent to pay Mr. Cook \$2,654.80 for loan and moorage payments.
46. The *Court Order Interest Act* applies to the CRT. Mr. Cook is entitled to pre-judgment interest on each monthly payment from the date it was incurred to the date of this decision. Since Mr. Cook did not provide any evidence of when each

monthly payment was due, I have calculated the interest period from the last day of each month. This equals \$212.92, broken down as follows:

- a. \$44.20 for the June 2023 loan and moorage payments.
- b. \$43.44 for the July 2023 loan and moorage payments.
- c. \$42.67 for the August 2023 loan and moorage payments.
- d. \$41.93 for the September 2023 loan and moorage payments.
- e. \$18.69 for the October 2023 loan payment.
- f. \$18.35 for the November 2023 loan payment.
- g. \$3.65 for the January 2024 loan payment.

47. 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. Mr. Cook was successful, so I find he is entitled to reimbursement of \$125 in CRT fees. Mr. Cook did not claim dispute-related expenses, so I order none.

ORDERS

48. Within 30 days of the date of this order, I order the respondent to pay Mr. Cook a total of \$2,992.72 broken down as follows:

- a. \$2,654.80 in debt,
- b. \$212.92 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$125 for CRT fees.

49. Mr. Cook is entitled to post-judgment interest, as applicable.

50. 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.

Jeffrey Drozdiak, Tribunal Member