



Civil Resolution Tribunal

Date Issued: February 4, 2025

File: SC-2023-007211

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Dinardo v. Waite*, 2025 BCCRT 159

BETWEEN:

NICHOLAS RANDAL DINARDO

APPLICANT

AND:

WHITNEY ANNE WAITE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Mark Henderson

INTRODUCTION

1. This dispute is about an alleged personal loan, ownership of personal property, and a cat.
2. The applicant, Nicholas Randal Dinardo, says the respondent, Whitney Anne Waite, owes them money. The applicant does not say how much the respondent owes.

The applicant also seeks \$5,000 for personal property allegedly in the respondent's possession. The personal property consists of a laptop, a PlayStation 5, a pair of ear buds, a knife set, Timberland boots, a ring, and a necklace.

3. The applicant also seeks the return of a cat, named Brannon, that allegedly belongs to them.
4. The respondent denies owing any money to the applicant. The respondent says the laptop and PlayStation 5 were gifts that the respondent repaid. The respondent says the Timberland boots were also a gift. The respondent denies possessing the ear buds, knife set, ring, or necklace.
5. The respondent says they owned Brannon before the relationship with the applicant started so Brannon has always been their cat.
6. The applicant represents themselves. A friend represents the respondent.
7. For the reasons set out below, I dismiss the applicant's claims.

JURISDICTION AND PROCEDURE

8. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under *Civil Resolution Tribunal Act* (CRTA) section 118. CRTA section 2 says 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.
9. 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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. I find that an oral hearing is not necessary.

10. 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.
11. Where permitted by section 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.

ISSUES

12. The issues in this dispute are:
 - a. Does the respondent owe money to the applicant, and if so, how much?
 - b. Who owns Brannon?
 - c. Who owns the other personal property?

EVIDENCE AND ANALYSIS

13. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities. 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.
14. The applicant provided no evidence other than their submissions, despite having the opportunity to do so.
15. I was unable to open some of the evidence that the respondent submitted. However, based on the applicant's lack of evidence and my findings below, I find that nothing turns on the respondent's submitted evidence that I could not open.

Does the respondent owe money to the applicant, and if so, how much?

16. The applicant and the respondent were in a relationship for approximately three and a half months from November 2022 to February 2023.

17. The applicant says that during the relationship the applicant's sister sent money to the respondent to use on the applicant's behalf because the applicant did not have a bank account. The applicant says the respondent used some of this money on themselves without permission.
18. I find the applicant did not provide any details of the alleged loan, including the amount the applicant's sister sent to the respondent, the amount the respondent allegedly used on themselves, or the date of the alleged loan. Without any evidence, I find the applicant has not proved the existence of the loan or an entitlement to repayment. So, I dismiss this part of the applicant's claim.

Who owns Brannon?

19. Legally, pets are considered personal property, and the principles of property law generally apply to pet ownership. Factors to consider in determining pet ownership include who bought and selected the pet, whether it was bought as a gift, who attended its veterinary appointments, who paid for the pet's needs, who licensed it, and how the parties viewed ownership (see *Alamaas v. Wheeler*, 2020 BCPC 51). 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). This list is not exhaustive, and no single factor is necessarily sufficient to establish ownership.
20. Here the applicant provided no evidence to support their alleged ownership of Brannon. The respondent says they got the cat on September 5, 2022, as a kitten. The respondent provided pictures dated September 5, 2022, showing the respondent taking Brannon home for the first time. The respondent says they had Brannon for two months before starting a relationship with the applicant. I accept the respondent's evidence that they got Brannon on September 5, 2022, before the parties became a couple. In the absence of any contrary evidence from the applicant, I find the respondent owns Brannon.

Who owns the other property?

21. The applicant says the respondent agreed to hold personal property items for the applicant while the applicant was incarcerated. The applicant said that the respondent refused to give these items to the applicant's "representatives" as the applicant had instructed the respondent to do.
22. The applicant says the respondent has not returned the following items and so seeks the following amounts for the items:
 - a. Laptop - \$2,000
 - b. PlayStation 5 - \$1,000
 - c. Beats by Dr. Dre ear buds - \$300
 - d. Knife set - \$300
 - e. Timberland boots - \$250
 - f. Necklace - \$300
 - g. Ring - \$300
23. The respondent disputes having the necklace, ring, ear buds, or knives. The respondent says the laptop and PlayStation 5 were a gift from the applicant that the respondent later repaid. The respondent also says the Timberland boots were a gift from the applicant.
24. I find the applicant's claim is based on the tort of conversion. Conversion is when a person wrongfully possesses another's personal property in a way that interferes with the owner's rights to it. To prove conversion, the applicant must show a wrongful act by the respondent involving handling, disposing, or destroying an item, and that the act was intended to or actually interfered with the applicant's right or title to the item (see *Li v Li*, 2017 BCSC 1312 at 214).

25. To prove the tort of conversion, the applicant must first prove their ownership of the items. The applicant did not provide any details to prove ownership of any of these items, such as receipts, dates of purchase, or purchase location. The applicant also did not provide any evidence to prove the assigned values of any of these items. I find that the applicant has not proved ownership of any of these items. So, I find the applicant has not proved the tort of conversion.
26. The party alleging an item is a gift, here the respondent, ordinarily has the burden to prove the gift. However, since the applicant has not proved ownership of these items, I find the respondent is not required to prove that the items were gifts.
27. For these reasons, I dismiss the applicant's claim for payment for the personal items.
28. Under CRTA section 49 and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. The applicant was unsuccessful, so I dismiss their claim for CRT fees. The respondent did not pay any CRT fees. Neither party claimed dispute-related expenses.

ORDER

29. I dismiss the applicant's claim and this dispute.

Mark Henderson, Tribunal Member