



Civil Resolution Tribunal

Date Issued: February 20, 2024

File: SC-2023-003842

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Weaver v. Raptis*, 2024 BCCRT 158

B E T W E E N :

ANDREW JOHN WEAVER

APPLICANT

A N D :

HELEN RAPTIS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about enforcement of a settlement agreement and other matters between former spouses.
2. Andrew John Weaver says he paid a deductible for an insurance claim on a Parksville home he co-owned with his former spouse, Helen Raptis, and is entitled to

reimbursement of half the paid deductible. Dr. Weaver also says Ms. Raptis is responsible for paying him for his proportionate share of revenue on a resort property the parties jointly owned. Finally, Dr. Weaver also claims reimbursement for a \$169.58 payment he made to Ms. Raptis to reimburse her for a mistaken hydro payment. In total, Dr. Weaver claims \$1,079.10.

3. Ms. Raptis says Dr. Weaver's claims were addressed in the parties' settlement agreement during the parties' divorce proceedings. Ms. Raptis also says the parties' settlement agreement gives the BC Supreme Court exclusive jurisdiction over claims related to the parties' settlement agreement and the Civil Resolution Tribunal (CRT) does not have jurisdiction to decide Dr. Weaver's claims.
4. Dr. Weaver is self-represented. Ms. Raptis is represented by a lawyer, Brent Kitzke.

JURISDICTION AND PROCEDURE

5. These are the CRT's formal written reasons. 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.
6. Section 39 of the CRTA says 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.
7. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to remove those issues.

8. Section 42 of the CRTA says 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.
9. 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.

ISSUES

10. The issues in this dispute are:
 - a. Does the CRT have jurisdiction over all of Dr. Weaver's claims?
 - b. If yes, to what extent if any is Ms. Raptis responsible to pay Dr. Weaver the claimed \$1,079.10?

EVIDENCE AND ANALYSIS

11. As the applicant in this civil proceeding, Dr. Weaver must prove his claims on a balance of probabilities (meaning more likely than not). I have reviewed all the parties' submissions and evidence but refer only to what I find necessary to explain my decision.

Does the CRT have jurisdiction over all of Dr. Weaver's claims?

12. The parties separated in 2021 and signed a separation agreement on June 28, 2022, and an amending agreement on November 21, 2022 (settlement agreement).
13. Ms. Raptis initially argued that the CRT does not have jurisdiction over Dr. Weaver's claims because the claims had already been resolved during the parties' divorce proceedings and were included in the parties' settlement agreement. A vice chair issued a preliminary decision on this dispute and found that the CRT has jurisdiction to decide disputes over family property settlement agreements because a settlement

agreement is a contract, even if it is about family law. The vice chair also found that 2 of Dr. Weaver's claims are about enforcement of the settlement agreement, which the CRT generally has jurisdiction to decide. Although not binding on me, I agree with the vice chair's reasoning and I find the CRT generally has jurisdiction to decide claims about enforcement of settlement agreements. However, that does not end the matter. The vice chair also noted the forum selection clause in section 24.2 of the parties' settlement agreement but did not consider it in her preliminary decision because the parties had not made submissions on it.

14. Section 24.2 of the parties' settlement agreement says:

(a) The law of British Columbia applies to this Agreement, and

(b) The Supreme Court of British Columbia has exclusive jurisdiction over this Agreement for all matters arising out of or connection with it, including the validity of the Agreement itself, and no other action may be brought in any other forum or subject to any other law.

15. In submissions, Ms. Raptis specifically refers to section 24.2 and says the CRT does not have jurisdiction over Dr. Weaver's claims on that basis.

16. The BC Supreme Court explains how to consider a forum selection clause in *Worldwide Warranty Life Services Inc. v. LiquidNano Inc.*, 2019 BCSC 2475, citing *Douez v. Facebook Inc.*, 2017 SCC 33. Once the court (or tribunal) finds the clause valid, it should uphold the clause unless there are "strong reasons" not to. This is because freedom of contract means parties are generally held to their bargain and bound by their contract's enforceable terms.

17. There is no dispute here that the forum selection clause is valid. In their submissions, the parties agree that Dr. Weaver's claims for reimbursement of the Parksville property insurance deductible and for payment the resort property's undistributed revenue are connected to the parties' settlement agreement.

18. So, are there strong reasons not to uphold the settlement agreement's forum selection clause? Under *Douez*, when exercising my discretion not to enforce such a clause, I must consider all the circumstances, including the "convenience of the parties, fairness between the parties, and the interest of justice."
19. I find strong reasons do not exist in this dispute. The clause itself gives the BC Supreme court exclusive jurisdiction, rather than to BC courts more generally. It also specifically says "**and no other action may be brought in any other forum**" (my bold emphasis added). Given this clear language in the clause itself, I find the parties clearly and intentionally restricted the forum for disputes arising from the settlement agreement to the BC Supreme Court. Further, although Ms. Raptis did not initially rely on the forum selection clause itself, Ms. Raptis raised the jurisdictional issue in her dispute response. Finally, apart from relying on the vice chair's preliminary decision to say the CRT has already decided it has jurisdiction over his claims, Dr. Weaver did not specifically address the forum selection clause or provide any reasons why the clause should not be upheld. As noted, the preliminary decision made no findings about the forum selection clause, and it is not binding on me in any event.
20. I find there are no strong reasons not to uphold section 24.2 of the parties' settlement agreement, which the parties contractually agreed to. So, I find the BC Supreme Court has exclusive jurisdiction over all matters arising out of or in connection with the parties' settlement agreement. Therefore, I find the CRT does not have jurisdiction over Dr. Weaver's claims for reimbursement of the Parksville property insurance deductible and for payment of the resort property's undistributed revenue, and I refuse to resolve these claims under CRTA section 10.

E-transfer of hydro payment refund

21. As noted, Dr. Weaver also claims reimbursement for a \$169.58 payment he made to Ms. Raptis to reimburse her for a mistaken hydro payment. In the preliminary decision, the vice chair found that Dr. Weaver's hydro e-transfer claim was not a family law matter nor the subject of the parties' separation agreement. While not

binding on me, I agree and find this part of Dr. Weaver's claim is not related to a family law matter nor the parties' settlement agreement.

22. I find the CRT has jurisdiction over this aspect of Dr. Weaver's claims. I say this because the claim is based solely on a mistaken overpayment, but responsibility for the underlying payment is not disputed. Dr. Weaver e-transferred Ms. Raptis \$169.58 in December 2022 to refund her after Ms. Raptis mistakenly made a payment to Dr. Weaver's hydro account. However, Ms. Raptis's mistaken payment had also been directly refunded to her from Dr. Weaver's hydro account. I find this amounts to a debt claim, and does not involve family property or the parties' separation agreements. So, I find the CRT has jurisdiction over this claim under CRTA section 118(1)(a).
23. In her submissions, Ms. Raptis says she agrees to repay Dr. Weaver the \$169.58 overpayment if the CRT has jurisdiction over this aspect of Dr. Weaver's claim. I have found the CRT has jurisdiction, and Ms. Raptis agrees to repay this amount. So, I order Ms. Raptis to pay Dr. Weaver \$169.58 for the hydro overpayment.

Interest, CRT fees and expenses

24. The *Court Order Interest Act* applies to the CRT. Dr. Weaver is entitled to pre-judgment interest on the \$169.58 award, reasonably calculated from December 31, 2022, the month he sent the e-transfer to Ms. Raptis, to the date of this decision. This equals \$9.21.
25. 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. Dr. Weaver was partially successful, so I find he is entitled to reimbursement of \$62.50 for half his paid CRT fees. Neither party claimed any dispute-related expenses.

ORDERS

26. Within 30 days of the date of this order, I order Ms. Raptis to pay Dr. Weaver a total of \$241.29, broken down as follows:

- a. \$169.58 as reimbursement for the hydro payment,
- b. \$9.21 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$62.50 in CRT fees.

27. Dr. Weaver is entitled to post-judgment interest, as applicable.

28. Under CRTA section 10, I refuse to resolve Dr. Weaver's claims for reimbursement of the Parksville property's insurance deductible and for payment of the resort property's undistributed revenue.

29. 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.

Leah Volkers, Tribunal Member