



Civil Resolution Tribunal

Date Issued: February 22, 2024

File: SC-2023-000212 and
SC-CC-2023-006265

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wilson v. Russell*, 2024 BCCRT 170

B E T W E E N :

ADRIAN ANTHONY WILSON

APPLICANT

A N D :

KOLE JAMES RUSSELL

RESPONDENT

A N D :

ADRIAN ANTHONY WILSON

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Megan Stewart

INTRODUCTION

1. Adrian Anthony Wilson says Kole James Russell¹ owes him \$300 for a personal loan, which is the amount he claims in SC-2023-000212. Mr. Wilson is self-represented.
2. Kole Russell denies Mr. Wilson's claims. He says Mr. Wilson slandered him by contacting his employer in connection with the alleged loan and relaying certain information to it, which damaged Kole Russell's relationship with his employer and cost him money. He also says Mr. Wilson's claims caused him anxiety and depression. So, Kole Russell counterclaims for \$1,000 in SC-CC-2023-006265. Kole Russell is also self-represented.
3. These 2 linked disputes involve the same parties and related issues, so I have issued a single decision for both of them.

JURISDICTION AND PROCEDURE

4. These are the Civil Resolution Tribunal's (CRT) formal written reasons. The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). CRTA section 2 states 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.
5. 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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me, without an oral hearing.

¹ The CRT has a policy to use inclusive language. As part of that commitment, the CRT asks parties to identify their pronouns and titles to ensure the CRT addresses them respectfully throughout the process, including in published decisions. Kole James Russell declined to provide his title. So, I will use his preferred name, Kole Russell, to refer to him throughout this decision.

6. 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.
7. 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.

ISSUES

8. The issues in this dispute are:
 - a. Does Kole Russell owe Mr. Wilson \$300?
 - b. Does the CRT have jurisdiction to decide Kole Russell's slander claim?
 - c. Did Mr. Wilson cause Kole Russell anxiety and depression, and if so, what is the appropriate remedy?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant Mr. Wilson must prove his claims on a balance of probabilities, meaning more likely than not. Kole Russell must prove his counterclaim to the same standard. I have read all the parties' submissions and evidence, but refer only to the information I find necessary to explain my decision. In coming to my decision, I have considered the submissions and evidence submitted by the parties collectively in both disputes.

Main claim

10. In SC-2023-000212, Mr. Wilson says he gave Kole Russell \$300 on December 21, 2022 in exchange for Kole Russell assembling a dog cage and performing 15 hours of labour. While Mr. Wilson characterizes this as a loan, I find it is more accurately described as a contract for services. Mr. Wilson says Kole Russell did not assemble the dog cage or do any labour.

11. In his Dispute Response, Kole Russell says he does not know Mr. Wilson. However, in submissions in both disputes, Kole Russell addresses some of Mr. Wilson's arguments as though he does know Mr. Wilson. Also, Mr. Wilson submitted text messages exchanged by the parties over several years, which Kole Russell does not dispute. So, I find that Mr. Wilson and Kole Russell do know each other, and further, that Kole Russell is not generally credible. Even so, I note that my decision ultimately turns on the evidence, and lack of evidence, before me.
12. Mr. Wilson notes it is an offence under CRTA section 92(1) to provide false or misleading information in a CRT proceeding. However, the CRT has no jurisdiction to impose fines or a conviction under section 92, and Mr. Wilson says he is not asking that Kole Russell be fined or imprisoned in any case.
13. I turn back to the parties' contract. Kole Russell does not explicitly deny he accepted Mr. Wilson's offer of \$300 in exchange for assembling the dog cage and doing 15 hours of labour. Text messages in evidence show Kole Russell asked Mr. Wilson to drop "the money" off on the night of December 21, 2022, and said he would help Mr. Wilson with the dog cage the next day. Later in December, Mr. Wilson asked Kole Russell to work off the debt as soon as possible, to which Kole Russell responded "yeah I will". Then, in early January 2023, Mr. Wilson asked Kole Russell if he intended to honour the parties' agreement. Kole Russell wrote that he would give Mr. Wilson the \$300 when he got his employment insurance, to which Mr. Wilson agreed. Mr. Wilson followed up with several more texts in January, but it does not appear that Kole Russell ever repaid him.
14. I find the parties amended the contract when Kole Russell offered to repay Mr. Wilson the \$300, and Mr. Wilson accepted that offer. Then, Kole Russell breached the amended contract by failing to repay Mr. Wilson. So, I find Mr. Wilson is entitled to \$300 in damages as a result of the breach.

Counterclaim

15. It is undisputed that in the course of seeking repayment of the \$300, Mr. Wilson told Kole Russell's employer that Kole Russell had a substance use problem. Kole Russell says this amounts to slander, though it is unclear whether Mr. Wilson's communications were verbal or written. Slander and libel are both forms of defamation. Slander is a verbal communication that is defamatory, whereas libel is a defamatory written communication. Communication is defamatory if it negatively affects the applicant's reputation in a reasonable person's eyes (see *Grant v. Torstar Corp.*, 2009 SCC 61 at paragraph 28).
16. CRTA section 119(a) says the CRT does not have jurisdiction over claims about slander or libel. CRTA section 10(1) says the CRT must refuse to resolve a claim that is not within the CRT's jurisdiction. So, I refuse to resolve Kole Russell's claim for slander.
17. Kole Russell also says Mr. Wilson's claims caused him anxiety and depression at a time when his father had recently passed away. I find this is essentially a claim for mental distress damages, so I considered whether the tort of intentional infliction of mental distress applied. That would require Kole Russell to show that Mr. Wilson's conduct in starting this CRT dispute was outrageous and calculated to produce harm, such that Kole Russell suffered mentally in a visible or provable way (see *Mission Group Homes Ltd. v. Braam*, 2017 BCSC 1281).
18. There is no evidence Mr. Wilson began this dispute to deliberately harm Kole Russell. I find it is likely an unfortunate coincidence that he did so shortly after Kole Russell's father passed away at a time when Kole Russell may have been vulnerable and grieving. In addition, Kole Russell provided no supporting medical evidence that Mr. Wilson's claims caused or worsened his condition. So, I find the tort of intentional infliction of mental distress unproven.
19. For the reasons above, I dismiss Kole Russell's counterclaim for \$1,000.

INTEREST, CRT FEES, AND DISPUTE-RELATED EXPENSES

20. The *Court Order Interest Act* applies to the CRT. Mr. Wilson is entitled to pre-judgment interest on the \$300 damages award from January 12, 2023, the last documented date Mr. Wilson requested repayment and one I find reasonable, to the date of this decision. This equals \$15.97.
21. 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. I see no reason not to follow that general rule here. I find Mr. Wilson is entitled to reimbursement of \$125 in CRT fees. I dismiss Kole Russell's claim for CRT fees. Neither party claimed dispute-related expenses.

ORDERS

22. Within 30 days of the date of this order, I order Kole Russell to pay Mr. Wilson a total of \$440.97, broken down as follows:
 - a. \$300 in damages for breach of contract,
 - b. \$15.97 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
23. Mr. Wilson is entitled to post-judgment interest, as applicable.
24. I refuse to resolve Kole Russell's claim for slander under CRTA section 10(1).
25. I dismiss the balance of Kole Russell's counterclaim.

26. 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.

Megan Stewart, Tribunal Member