



Civil Resolution Tribunal

Date Issued: August 22, 2024

File: SC-2023-006070

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Canton v. Bereket*, 2024 BCCRT 810

B E T W E E N :

MARCO CANTON

APPLICANT

A N D :

MINTEWAB BEREKET

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Amanda Binnie

INTRODUCTION

1. This dispute is about the return of items between former romantic partners. The applicant, Marco Canton, claims the respondent, Mintewab Bereket, kept some of his belongings after he moved out. He claims \$1,100 in compensation for those items, or for their return.

2. Ms. Bereket says she never agreed to store the items for Mr. Canton, he left them after their breakup against her wishes. She says she has returned some of the items, but Mr. Canton has refused to pick up the remaining items.
3. The parties are each self-represented.

JURISDICTION AND PROCEDURE

4. 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). Section 2 of the CRTA 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.
5. 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. I find the parties' written communications provide enough evidence of their interactions at the relevant times. 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.
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 court.
7. 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.

ISSUE

8. The issue in this dispute is whether Mr. Canton is entitled to the return of his items, or reimbursement for them.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, Mr. Canton must prove his 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.
10. The parties provided a significant amount of evidence about their relationship, most of which is irrelevant to this dispute. However, I find they initially met when Ms. Bereket came to Canada and subletted Mr. Canton's room while he was away in late 2021 for 3 months.
11. In February 2022, when Mr. Canton returned, Ms. Bereket moved into another room within the same house. The parties were then in a romantic relationship from shortly after that point until September or October 2022. In October 2022, Mr. Canton again left Canada and I infer his room was rented to someone else. Mr. Canton returned to Canada in April 2023.
12. The parties agree Mr. Canton left items in the house when he left. These items included furniture, electronics, exercise equipment and other personal items. The parties disagree on what he told Ms. Bereket to do with those items.
13. Mr. Canton says he told Ms. Bereket that she could use the items while he was away, but never told her he was giving them to her. Ms. Bereket says Mr. Canton told her she could use them, give them away or sell them, as she would like. Ms. Bereket also says she told Mr. Canton to store the items with their landlord, not with her.
14. The parties did not have an amicable breakup. As a result, Ms. Bereket did not want to deal with Mr. Canton directly, and blocked him on messaging services. So, Mr. Canton had one of his friends, AT, contact Ms. Bereket. However, the initial messages from AT in January 2023 do not mention the items at all. Instead, AT asked for Ms. Bereket's perspective on the parties' relationship with a view to helping Mr. Canton move on.

15. It was not until the end of January 2023 that AT asked Ms. Bereket about the return of the monitors. In their message, AT specifically says that Mr. Canton “already said you can do whatever you want with them”, but he (AT) advised Mr. Canton that as the monitors were his employer’s property, Mr. Canton should ask for them back.
16. While AT suggested that Mr. Canton could just pick up the items at Ms. Bereket’s home, Ms. Bereket did not want Mr. Canton at her residence. She instead arranged for a mutual friend, J, to hold onto the items for Mr. Canton. However, Mr. Canton refused to allow this.
17. Instead, it is undisputed that Ms. Bereket left a few items hidden outside her residence in April 2023, including the monitors and a backpack, and Mr. Canton picked them up.
18. On April 14, Mr. Canton emailed Ms. Bereket some of the remaining items, saying it would be his “right to come there with police” to take them, but that he would leave them with Ms. Bereket to “teach her a lesson”.
19. After this point, in June 2023, Ms. Bereket engaged the police to return the items to Mr. Canton without having to deal with Mr. Canton directly. Given the content of some of the emails Mr. Canton was sending her at this time, I find this was a reasonable decision.
20. Mr. Canton emailed Ms. Bereket around the same time, saying he “decided I want the rest of my belongings back”. He suggested this be done via the landlord D, with a police officer or by a civil suit. He threatened he “may have to enter every room to get what’s mine with the police”.
21. Unfortunately, when Ms. Bereket followed up with the officer handling her case, he had transferred to another department and the police department refused to assist with storing items. By this point, Mr. Canton had left Canada again.

22. In April 2024, after Mr. Canton started this CRT dispute, Ms. Bereket provided as evidence in this dispute contact information of H and a list of Mr. Canton's items that she had given H. She asks Mr. Canton to contact H to arrange pickup.

Applicable law

23. The parties do not disagree that before Mr. Canton initially left Canada in October 2022, the items at issue in this dispute were his property.

24. Though Mr. Canton does not use the words, I find his claim for the return of his items is based on the torts of conversion or detinue. Conversion involves wrongfully holding on to another person's property and claiming title or ownership over that property. Detinue refers to continuous wrongful detention of personal property, with the general remedy being the return of the asset or market value damages (see *Li v. Li*, 2017 BCSC 1312)

25. However, Ms. Bereket is not liable in detinue or conversion if Mr. Canton abandoned his property (see: *Bangle v Lafreniere*, 2012 BCSC 256 at paragraph 30).

26. The legal test for abandonment is based on 4 factors: a) the passage of time, b) the nature of the transaction, c) the owner's conduct and d) the nature and value of the property (see *Jackson v. Honey*, 2007 BCSC 1869 at paragraph 30).

27. Conversion is also not applicable if Mr. Canton gifted the items to Ms. Bereket. However, I find I do not need to consider whether Mr. Canton gifted the items, based on my finding below.

Did Mr. Canton abandon the items?

28. I find Mr. Canton did abandon the items, for the following reasons.

29. First, Mr. Canton does not dispute that Ms. Bereket told him she would prefer if he left the items with their landlord when he moved out. He also does not dispute that some of the items were left in the room he rented, not with Ms. Bereket specifically. I

find, given the tone of the parties' communications after the breakup, Ms. Bereket likely did tell Mr. Canton she did not want to store his belongings.

30. Second, though I accept Mr. Canton did not explicitly tell Ms. Bereket they were a "present", I do not accept Mr. Canton's submission that Ms. Bereket agreed to be the "custodian" of his items. Again, I find this is inconsistent with the parties' behaviour after they broke up.
31. Third, I find Mr. Canton did not ask for the return of his items for at least 3 months, and at that time it was only for the monitors, at the urging of AT. This is despite the numerous emails, text messages, and letters Mr. Canton sent Ms. Bereket. It was Ms. Bereket who reached out to AT about the remaining items. I agree with Ms. Bereket that Mr. Canton seemed to use the items' return to remain in contact with her.
32. Finally, I find Mr. Canton's refusal to accept Ms. Bereket's suggested compromises for picking up the items, as well as his aggressive email that he was leaving the items with Ms. Bereket as a "lesson", suggest that he was not serious about wanting his items back.
33. Mr. Canton has not explained why he does not want to reach out to the mutual acquaintance who currently has his items, particularly since he himself used a third party, AT, to talk to Ms. Bereket after the parties broke up. There is no evidence this option is not still available to him, and I find this is further evidence that Mr. Canton was not serious about wanting his items back. So, I find he abandoned these items.
34. As I have found Mr. Canton abandoned his items, I find he has not proven Ms. Bereket liable for conversion or detinue. So, I dismiss his claim for return of his items or compensation for them.
35. As I dismiss Mr. Canton's claim for the return of his items, I also dismiss his claim for a courier or storage costs for the items.

36. 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. As Mr. Canton was the unsuccessful party, I do not order reimbursement of his paid CRT fees. Though Ms. Bereket was successful, she did not pay any fees and so I award none. Neither party claimed any dispute-related expenses, other than Mr. Canton's claim for courier and storage costs, which I have addressed above.

ORDER

37. I dismiss Mr. Canton's claims and this dispute.

Amanda Binnie, Tribunal Member