



# Civil Resolution Tribunal

Date Issued: August 26, 2024

File: SC-2023-004071

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Crystal Glass Canada Ltd. v. Moe's Auto Services Ltd.*, 2024 BCCRT 828

B E T W E E N :

CRYSTAL GLASS CANADA LTD.

**APPLICANT**

A N D :

MOE'S AUTO SERVICES LTD., MICHAEL MILLER, and JANIS ROSE  
GAUTHIER

**RESPONDENTS**

---

## REASONS FOR DECISION

---

Tribunal Member:

Micah Carmody

## INTRODUCTION

1. The applicant, Crystal Glass Canada Ltd. (Crystal), supplied glass on credit to the corporate respondent, Moe's Auto Services Ltd. (Moe's). Crystal says Moe's owes \$2,054.39 for several invoices from 2022, plus interest at 24% annually.

2. The individual respondents, Michael Miller and Janis Rose Gauthier, are alleged directors or officers of Moe's. Crystal says the individual respondents are jointly and severally responsible for Moe's debt under a credit application. Crystal is represented by an employee.
3. Moe's and Michael Miller did not file dispute responses and are in default, as discussed below. Mrs. Gauthier says Michael Miller is Moe's current owner. She says she resigned from Moe's in 2021 before the claimed debts were incurred, so she is not responsible for them. Mrs. Gauthier represents herself.

## **JURISDICTION AND PROCEDURE**

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has authority over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA says the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
5. The CRT conducts most hearings by written submissions, but it has discretion to decide the format of the hearing, including by telephone or videoconference. Based on the evidence and submissions provided, I am satisfied that I can fairly decide this dispute without an oral hearing.
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 pay money, return personal property, or do things required by an agreement about personal property or services. The order may include any terms or conditions the CRT considers appropriate.

## **ISSUES**

8. The issues in this dispute are:

- a. Is Moe's liable for the claimed \$2,054.39 debt?
- b. Was the credit application binding on Mrs. Gauthier or Michael Miller?
- c. Did Mrs. Gauthier revoke her guarantor status and did Crystal accept that revocation?

## **EVIDENCE AND ANALYSIS**

9. As the applicant in this civil proceeding, Crystal must prove its claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. I begin with the claimed debt and Moe's default status. Crystal provided detailed records and invoices showing that between July and November 2022, Moe's accrued \$2,054.39 in debt for glass purchases. As noted, Moe's did not file a Dispute Response and is in default, meaning the CRT may assume that Moe's is liable. The evidence here satisfies me that Moe's is liable for the claimed \$2,054.39 debt.
11. I turn to the individual respondents. Crystal relies on a "credit application and agreement" completed April 25, 2008. The agreement is a standard agreement Crystal prepared for its customers. In the blank space near the top for the customer's name is written "Maurice Gauthier – Moe's Auto Services Ltd." At the bottom, Maurice Gauthier signed it. Although not entirely clear, I accept for the purposes of this dispute that Maurice Gauthier applied for credit on Moe's behalf, as its agent. None of the parties argue otherwise.
12. Crystal relies on clause 20 of the agreement. It says that the individual signing the agreement, together with "all Directors and Officers on behalf of [Moe's], agrees [...] to be bound jointly and severally with [Moe's]" for Moe's debt. Mrs. Gauthier, at the time, was an officer of Moe's. A BC Company Summary shows that as of September 20, 2022, Mrs. Gauthier was still an officer, along with Maurice Gauthier, who undisputedly passed away in 2014.

13. Crystal did not point to any legal authority stating that one director, or a company, can bind other directors as guarantors without those directors personally signing the agreement. Generally, a contract cannot give rights and impose obligations on people who are not parties to the contract. This legal concept is known as “privity of contract.” Was Mrs. Gauthier a contracting party? I find she was not. It is true that she was listed on the contract where the form asked for names, addresses and phone numbers of two of Moe’s “officers, directors, managers or partners”. However, she was not identified as an applicant and she was not asked to sign the agreement. I find Mrs. Gauthier was not a party to the contract.
14. Was Mrs. Gauthier nonetheless bound by clause 20? One exception to privity of contract is agency. The law of agency applies when one party (the principal) gives authority to another party (the agent) to enter into contracts with third parties on its behalf. While Crystal does not use this language, in effect, it is arguing that Maurice Gauthier or Moe’s had authority to bind Mrs. Gauthier as her agent. However, there is no evidence that Mrs. Gauthier explicitly or implicitly told Crystal that Maurice Gauthier or Moe’s represented her as an agent. So, Crystal has not proven that Maurice Gauthier or Moe’s had actual or apparent authority to bind her. Therefore, I find Crystal has not proven that Mrs. Gauthier agreed to the credit agreement or to be personally liable for Moe’s’ debt.
15. Given my finding that Mrs. Gauthier was not a guarantor for Moe’s debt, it is not necessary to consider her argument that she resigned from Moe’s before the debts were incurred.
16. I turn to Michael Miller’s liability. While Michael Miller is technically in default, where liability may be inferred, I find it is not appropriate to infer liability here. The basis on which Crystal says Michael Miller is liable is that he was Moe’s owner and director when Moe’s incurred the debt. However, there is no evidence that he ever signed a credit agreement as a guarantor or otherwise agreed to be personally liable for Moe’s debts. So, I dismiss the claim against Michael Miller.

### ***Interest, CRT fees and expenses***

17. Crystal claims interest at 24% annually based on clause 18 (b) in the agreement. I find Moe's is bound by this. Crystal calculated interest as owing from September 30, 2022, and I accept that start date. As of the date of this decision, the accrued interest is \$941.53.
18. Under CRTA section 49 and the CRT rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. Crystal was successful, so I find Moe's must reimburse it \$125 in paid CRT fees. Crystal also claimed \$114 in expenses. I allow the corporate search-related expenses, which totaled \$69.86. I do not allow the registered mail fees because the mail was not addressed to a respondent. I do not allow the claimed amounts for email, photocopies, printing or scanning as there were no receipts, and photocopying and printing are not generally necessary for an online proceeding.

### **ORDERS**

19. Within 14 days of the date of this order, I order Moe's to pay Crystal a total of \$3,190.78, broken down as follows:
  - a. \$2,054.39 in debt,
  - b. \$941.53 in contractual interest
  - c. \$194.86, for \$125 in CRT fees and \$69.86 in dispute-related expenses.
20. Crystal is entitled to post-judgment interest, as applicable.
21. I dismiss the claims against Michael Miller and Mrs. Gauthier.

22. 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 a court order.

---

Micah Carmody, Tribunal Member