

**SMALL CLAIMS COURT OF NOVA SCOTIA**  
**Citation:** *Simmonds v. Lavoie(Connell)*, 2024 NSSM 32

**Date:** 20240503  
**Docket:** 527879  
**Registry:** Halifax

Roger Simmonds

v.

Tanya Lavoie (Connell)

**Adjudicator:** Darrel Pink  
**Heard:** May 2, 2024, in Halifax, Nova Scotia  
**Decision:** May 3, 2024  
**Counsel:** Both parties were self-represented

**By the Court:**

**Introduction**

[1] The video hearing of this matter was on May 2, 2024. Both parties appeared and presented evidence. Based on that testimony these facts were established.

[2] The Claimant works for Halifax Transit. The Defendant worked for a medical office and an optician during the relevant times.

[3] The parties had a short intimate relationship between April and July 2023. In that time they occupied two apartments – the first for a short time in May, from which they were evicted and then they moved to Sackville and leased an apartment from Bruce Bragg. The Claimant moved out in late July after which the Defendant signed a new lease in her name. The parties shared rent (\$2200/month) and household expenses, though the latter seem to have been minimal.

[4] At the outset of their relationship, the Claimant told the Defendant he had limited resources though he had good credit as he had credit cards from both BMO and RBC. He was not familiar with banking technology such as online banking. He stated, and I accept, that his wife, whom he left for the Defendant, had taken care of all financial matters.

[5] The Defendant offered to set up the Claimant's banking on his phone. He agreed. At the same time, she placed the banking application, for his account on her phone.

[6] During their relationship, the Defendant, without the Claimant's permission e-transferred \$6100 from the Claimant's account to hers. [pp. 1-10, Claimant's evidence] She says she provided cash to the Claimant for his use. I do not accept that evidence as the Defendant provided no details, other than to suggest the Claimant used the cash to buy lottery tickets. The Claimant denies this occurred regularly or that he benefited from the money transferred to him. He says he used his phone to pay for items he acquired. I accept his evidence.

[7] The Claimant had a BMO Mastercard. Because the Defendant had access to a COSTCO Mastercard through her former husband, the Claimant agreed to add the Defendant to his credit card on condition that when she used it, she would reimburse him.

[8] At the beginning of their relationship, the balance owing on the Claimant's Mastercard was \$0.00.

[9] In May 2023, the Defendant, without the Claimant's permission, used the Mastercard to purchase glasses at Hakim Optical, where she worked (\$524) and a ring at Michael Hill Jewellers (\$3103.85). She also took cash advances of \$3535,

including fees. In May she spent \$7195.44 on the Mastercard, without reimbursing the Claimant.

[10] In June and July she withdrew, without the Claimant's permission \$10347.71 through cash advances. She did not repay these sums.

[11] Towards the end of the parties' short-lived relationship in late July, the Defendant used the MasterCard to withdraw \$6343.70. Consistent with earlier transactions these were done without consent and were not repaid.

[12] When the parties moved to Sackville, the Defendant bought furniture from Surplus Furniture & Mattress Warehouse for \$4794.35, which she charged to the Claimant's RBC Visa, to which she had access. The Claimant did not agree to the purchases and when he left the relationship the Furniture remained with the Defendant.

[13] During their time together the Defendant used the Claimant's RBC Visa, for her sole benefit, in the sum of about \$10731, including the furniture purchase. The Claimant did not let the Defendant use his credit card for these purchases. No repayment by the Defendant has occurred.

[14] During the summer of 2023, the Defendant claimed her car, which broke down, had been in an accident. She reported that to her insurer and rented a vehicle

through Enterprise Car Rental. Because her insurer was involved, she did not expect to pay for the rental. She provided the Claimant's Visa card number to Enterprise.

[15] Keith Garber, a former partner of the Defendant's testified. He was called by the Defendant when her vehicle became inoperable, and he drove to get her. He determined there had not been an accident. When he learned of the insurance claim, he reported that fact to her insurer, and in effect accused the Defendant of fraud. The Defendant did not return the car to the rental agency. The Claimant advised Enterprise where the car could be located, and the company retrieved it.

[16] Cost for the time she had the vehicle totalled \$2164.33, which was charged to the Claimant's Visa.

[17] Throughout their three-month relationship the Defendant used the Claimant's bank account, his BMO MasterCard and his RBC Visa for:

1. E-transfers - \$6100.00
2. MasterCard - \$7195.44
3. MasterCard - \$16691.41 (cash advances)
4. RBC Visa - \$10731.00
5. Rental car charge - \$2164.33

[18] The Defendant accessed and used the Claimant's financial resources totalling \$43482.18.

[19] The Defendant unilaterally benefited herself at the Claimant's expense. The behaviour may be criminal, but regardless, by unjustly enriching herself, the Claimant becomes liable to the Claimant to reimburse him for the sums she wrongfully took from him.

[20] The Defendant is liable to the Claimant for the tort of conversion.

[21] The tort of conversion "involves a wrongful interference with the goods of another, such as taking, using or destroying these goods in a manner inconsistent with the owner's right of possession": Boma Manufacturing Ltd. v. Canadian Imperial Bank of Commerce, 1996 CanLII 149 (SCC), [1996] 3 S.C.R. 727, at para. 31. The taking of money can be included in conversion as the Defendant's conduct deprived the Claimant of the benefit of his funds.

[22] Given the Court's monetary jurisdiction, Defendant is ordered to pay:

1. Damages - \$25,000
  2. Costs - \$199.35
- Total - \$25,199.35

Darrel Pink, Small Claims Court Adjudicator