

Citation: *Dolhan v. Abughali*, 2022 YKSM 5

Date: 20220620
Docket: 21-S0050
Registry: Whitehorse

SMALL CLAIMS COURT OF YUKON
Before Her Honour Judge Brass

KIMBERLY DOLHAN

Plaintiff

v.

OSAMA ABUGHALI

Defendant

Appearances:

Kimberly Dolhan

Osama Abughali (By Video)

Appearing on her own behalf

Appearing on his own behalf

REASONS FOR JUDGMENT

[1] BRASS T.C.J. (Oral): This is a Small Claim between Kimberly Dolhan, plaintiff and Osama Abughali, defendant.

[2] This Claim was filed with the Court on October 27, 2021.

[3] Ms. Dolhan claims that she loaned Mr. Abughali an amount of \$21,013 and further claims interest and costs related to filing her claims and fees for service of her claim.

[4] Ms. Dolhan indicated that through the period of September 3, 2018 to January 31, 2021, she provided loans and some gifts to Mr. Abughali.

[5] The Court was informed that the parties met in July or August 2018 and started a romantic relationship. It was unclear how long that relationship lasted but the parties did stay in contact until into 2020.

[6] Ms. Dolhan submitted evidence filed into Court as under P1 and P2. Ms. Dolhan went through these documents this morning in her submissions to the Court. In P1 there was references to text messages that the money provided to Mr. Abughali were loans. Ms. Dolhan also submitted that the loans were originally subject to an oral agreement with Mr. Abughali. In September 2019, Ms. Dolhan made an attempt to convert that oral agreement into a written agreement.

[7] The Court accepts that that written agreement was never signed by either party.

[8] Ms. Dolhan also submitted a bank statement from Scotiabank that contained a number of line items that Ms. Dolhan claims to show the numerous loans provided to Mr. Abughali. The Court saw that there were some 79 transfers made for amounts between \$50 and \$1,400. Ms. Dolhan indicated that some of those amounts were gifts, maybe the ones for \$50 to \$75 or \$100. This was when she was helping Ms. Abughali when he had, for example, no food.

[9] Ms. Dolhan indicated that she was helping Mr. Abughali while he was unemployed and needed help with rent, bills, and to help his children.

[10] Ms. Abughali denies that any money provided to him was a loan and, in fact, that he did work for Ms. Dolhan in her home and that she, in fact, owes him \$10,000.

[11] From the documents, the Court can see that there are text messages where Ms. Dolhan references loans and monies owed by Mr. Abughali to Ms. Dolhan.

[12] The Court can also see requests made by Ms. Dolhan to Mr. Abughali to help her repay the bank for monies owed.

[13] The Court can see that the multiple transfers were made to Mr. Abughali. The Court heard that Mr. Abughali did paint a deck, fence, flower pots, and fixed a door. Both parties agreed that he worked for five to 10 days to do this work. The Court was provided a receipt for \$1,000 that shows payment for this work. Mr. Abughali did not provide any documents to substantiate that he worked on anything of a \$10,000 value.

[14] The Court accepts that Ms. Dolhan hired Mr. Abughali to do the mentioned painting and paid him \$1,000 for that work.

[15] The Court views that the loan arrangement existed between the parties and that this was an ongoing transaction that started in September 2018 and concluded in January 2020.

[16] The Yukon *Limitation of Actions Act*, RSY 2002, c. 139, limits claims to a two-year period when a plaintiff realizes that a claim exists. That occurred on January 31, 2020, when the final loan payment was transferred and not repaid by Mr. Abughali. As indicated, Ms. Dolhan filed her Claim on October 27, 2021, which falls within the two-year limitation period for the continuing loan arrangement that was based on a verbal agreement that started on September 3, 2018.

[17] The Court does not accept Mr. Abughali's Cross Claim of \$10,000, since he did not provide any evidence to support the claim.

[18] The Court accepts that the transfers made, specifically to Mr. Abughali, at the email address of [redacted] was subject to the continuing verbal loan agreement between the parties.

[19] The Court did not include the gift transfers for under \$100.

[20] The Court also did not include transfers made to email addresses not assigned to [redacted].

[21] The amount the Court allows for Ms. Dolhan's Small Claim against Mr. Abughali for loans transferred from September 3, 2018 to January 31, 2020, is a total amount of \$19,458, as well as costs for filing the Claim will also be awarded to Ms. Dolhan, as well as pre-judgment interest will also be awarded to Ms. Dolhan.

[22] Mr. Abughali will be responsible for those amounts in this Small Claim.

BRASS T.C.J.