

Citation: *Wright v. Dehling*, 2022 YKSM 6

Date: 20221118
Docket: 22-S0015
Registry: Whitehorse

SMALL CLAIMS COURT OF YUKON
Before His Honour Chief Judge Cozens

JOHN WRIGHT

Plaintiff

v.

AMANDA DEHLING

Defendant

Appearances:
John Wright
Amanda Dehling

Appearing on his own behalf
Appearing on her own behalf

REASONS FOR JUDGMENT

[1] The Plaintiff, John Wright, claims against the Defendant, Amanda Dehling, for \$2,500, being the outstanding balance of the \$4,000 in costs associated with transporting a camper vehicle (the "Camper") from Grande Cache, Alberta, to Whitehorse, Yukon. The basis of the Claim was an oral agreement between himself and Ms. Dehling to pay \$4,000. This oral agreement was made after the termination of a prior oral agreement to jointly purchase, transport, and sell the Camper, splitting all costs and profits equally.

[2] Ms. Dehling denies that she and Mr. Wright ever had a second oral agreement that she would pay him the costs associated with transporting the Camper to Whitehorse.

[3] The only witnesses at the trial were Mr. Wright and Ms. Dehling.

[4] It is undisputed, and I find, that Mr. Wright and Ms. Dehling had an original oral agreement for the joint purchase of the Camper in Grand Cache, Alberta. The parties agreed to share equally the cost and the profit. Ms. Dehling would purchase the Camper, with Mr. Wright subsequently contributing his 50% share. This agreement was made prior to June 1, 2022 (all dates in this Judgment are in 2022). Arrangements were made by Mr. Wright to have the Camper transported on June 2.

[5] Ms. Dehling then purchased the Camper for the price of \$17,000. She paid the entire purchase price up front, with Mr. Wright to contribute his share through Interac transfers as he was able to do.

[6] I find that this original agreement was terminated by Ms. Dehling on June 1, on the basis that she wished to retain sole ownership of the Camper. Following communications within a fairly limited time period, Mr. Wright agreed to continue his plan to transport the Camper to Whitehorse and deliver it to Ms. Dehling, who would retain sole ownership of the Camper.

[7] The issue before me is what, if any, agreement was reached between the parties as to what Ms. Dehling would pay to Mr. Wright for the transport of the Camper.

[8] Mr. Wright claims that Ms. Dehling agreed to pay the amount of \$4,000. In support of his position, he relies on text messages that he sent, one that he read to Ms. Dehling in a phone conversation, as well as a subsequent phone conversation, all of which occurred on June 1. He further relies on text messages he received from Ms. Dehling

on June 2, and text messages that he read to her that day. Copies of a number of these text messages were filed during the trial.

[9] In the June 1, text message that Mr. Wright testified he read to Ms. Dehling at 7:30 p.m., it states, in part:

Generally I'd like to get a minimum profit of \$3000 for the items that are being towed up.

To do that they have to generate a profit of \$3000 plus around 2/3s – 3/4s of the cost, with the other third of the cost going to the cost of the vehicle that is doing the towing, and will be sold too.

...

What about we split the cost of this load up (gas, flight, hotel, Stu's time) and then agree on an amount we are okay with?

...if you want to proceed with splitting the cost if not let me know how you like to proceed.

[10] Mr. Wright testified that he spoke with Ms. Dehling at approximately 9:25 that evening, and Ms. Dehling agreed that she would pay Mr. Wright \$4,000 all in for the transport of the Camper. He testified that Ms. Dehling changed her mind about paying the amount of \$4,000 only after the Camper was already en route to Whitehorse. She made this clear in a text that she sent to Mr. Wright at 1:10 p.m. on June 2. She then stated that she wanted to revert to the original oral agreement to have Mr. Wright pay for half the cost of the Camper and share in the cost/profit arrangement originally made between them.

[11] Mr. Wright responded by sending Ms. Dehling a text at 1:14/15 p.m. on June 2, in which he stated:

...if that's the way you want to proceed that's the way we'll proceed the trailer will be brought here I'll sell it

I'll bill you for the time that I put into selling it I'll give you half the purchase price today I am will drop a legal agreement regarding the whole thing.

...

I'm doing a service for you for which we had an agreement.

You are now looking to change the agreement it is obviously frustrating on my end.

Please tell me what you like to pay to get your trailer up here so I know what the agreement is thank you.

As per our discussion, we can use \$1100 as the ballpark figure for your half of the expenses. Once receipts are available and totalled we can input the exact correct amount for expenses.

As we discussed, I'll look forward to receiving from you your suggestion for what you will be paying me for the services, above the aforementioned expenses.

[12] It is clear from the text exchanges on June 2, that Ms. Dehling was vacillating between her decision to keep the Camper for herself, and opening up the possibility of reverting back to the original cost and profit sharing arrangement that the parties had. It is also clear that while Ms. Dehling had agreed on the evening of June 1 to pay Mr. Wright the amount of \$4,000 for transporting the Camper, she was not happy with this agreement. The parties then engaged in further discussions trying to determine whether they could reach another agreement. These discussions did not, in the end, resolve anything, so Mr. Wright reverted to his position as per the phone conversations of June 1, that Ms. Dehling pay him a total amount of \$4,000.

[13] Ms. Dehling also proposed paying 3/4 of the costs associated with transporting the Camper. Mr. Wright rejected this offer. He proposed in a text message at 3:09 p.m. on

June 2, that he would accept an amount of \$3,400 total rather than \$4,000. He also proposed, mostly in line with the original agreement, that he pay for half of the trailer purchase price, and splitting the profits minus the cost. Ms. Dehling texted at 3:22 p.m. on June 2 that Mr. Wright should pay for half of the Camper, but within minutes texted that Mr. Wright should buy the Camper outright and she back out completely. Then at 3:49 p.m., Ms. Dehling said that she wanted to go back to the original plan to split everything.

[14] Ms. Dehling subsequently sent text messages at 7:48 a.m. and 7:55 a.m. on June 3, agreeing to pay Mr. Wright \$3,400, by paying \$1,000 upon delivery and \$2,400 by the end of June. Mr. Wright texted at 8:16 a.m. on June 3 that this was mostly acceptable to him, although he wanted payment in full upon delivery. He stated that he wanted to nail down the details so that he could edit the agreement he had drafted earlier that morning.

[15] On June 3 at 8:20 a.m., Ms. Dehling then sent Mr. Wright a text stating:

So other option. You give me \$8,000 until sale. Then essentially split profit will be \$3,400 maybe

[16] At 8:34 a.m. Mr. Wright responded as follows:

I don't really want to go round and round with this but yesterday at 330 we agreed I'd get you funds to purchase half.

this morning I confirmed [sic] and asked to meet to give you the funds for the purchase of the trailer and then you switch gears to 3400 for delivery.

My preference is the \$3400 for delivery so we can cut our ties to one another. Let's proceed with that if you are still agreeable to it so we can walk away from one another

[17] There was back and forth between the parties in which uncertainty as to what had actually been agreed to was apparent. Mr. Wright further reiterated that although there had been an agreement for Ms. Dehling to pay him \$4,000, he was prepared to revise that to \$3,400. This is contained in a text at 10:35 a.m. on June 3.

[18] There was a delay in delivery of the Camper due to a mechanical issue, however it was available for delivery on June 5, as noted in a text message from Mr. Wright to Ms. Dehling at 1:18 p.m. that day. Ms. Dehling agreed to pay the transport fees. Mr. Wright then stated in a text message at 1:31 p.m. that the transport fees would be \$4,000, reverting back to the June 1 and 2 oral agreement made following the breakdown of the earlier June 1 oral agreement. Ms. Dehling texted that she would not pay \$4,000. Mr. Wright subsequently responded that he would accept \$3,500 if payment was made in full at the time of pickup, as seen in a text message sent June 6, at 1:16 p.m.

[19] Ultimately, Ms. Dehling provided Mr. Wright with a total of \$1,500. She testified that she sold the Camper for \$19,500, providing an unsigned Bill of Sale in support of her testimony. Attached to the Reply were documents showing expenses incurred by Mr. Wright of \$1,860 for transporting the Camper. There was an additional approximately \$1,000 for costs associated with a two-vehicle breakdown, however these charges are not something that could be attributed to Ms. Dehling.

[20] Mr. Wright also provided Ms. Dehling with an estimate of \$2,140 in profit that he should have made had Ms. Dehling complied with the agreement to pay him \$4,000 for transporting the Camper.

Analysis

[21] A complicating feature in this matter is the nature of the relationship between the parties. This was clearly not, from both sides' point of view, a purely contractual business arrangement between separate and distinct entities. The back-and-forth nature of the conversations is clear evidence of the impact of the prior intimate relationship upon the parties' approach, in particular with respect to Ms. Dehling.

[22] I find that Ms. Dehling's approach was significantly less clear and concise, and more impacted by the relationship issues, than the approach of Mr. Wright, who was attempting to reach a specified contractual relationship for payment of the transportation costs for the Camper through a more business-like approach. Overall, I find the evidence of Mr. Wright to be more reliable and on point than the evidence of Ms. Dehling.

[23] I find that the original agreement for splitting the costs and profits of the Camper was voided by Ms. Dehling's stated intent to keep the camper for herself or rental purposes. Mr. Wright was within his legal rights to consider the oral contract as having been terminated, and to try to arrange for a new contractual agreement. Any subsequent exchanges between the parties, while discussing the possibility of reverting to this original agreement, did not result in a meeting of the minds on such a concluded arrangement, and therefore no such contractual agreement was ever reached to do so.

[24] I further find that Ms. Dehling did agree late on June 1 and early on June 2, to pay Mr. Wright \$4,000 for transportation of the Camper. However, it is also clear to me that Ms. Dehling did not do so with a clear consideration of the issue, and with careful

thought. To me, her agreement was a reaction to the situation that was inextricably linked to the issues arising out of the nature of her pre-existing relationship with Mr. Wright. This said, there was no power imbalance between the parties that I can see, and no ambiguity in what Mr. Wright was proposing as a contractual arrangement. Ms. Dehling, while not enthusiastic about paying \$4,000, nevertheless agreed to do so. Mr. Wright then acted on the basis of this second agreement and arranged for the Camper to be transported. Ms. Dehling's subsequent assertions that she was not going to pay the \$4,000 was, I find, more in the nature of a change of her mind based upon her original lack of enthusiasm and the interwoven relationship issues, than it was an indication that she had never agreed to pay \$4,000 in the first place.

[25] To the extent that there were further communications in which Ms. Dehling was expressing her dissatisfaction with the situation, and both she and Mr. Wright were proposing alternative resolutions, I am satisfied that no further binding contractual arrangement was ever reached.

[26] Mr. Wright is entitled to be compensated for his part in transporting the Camper to Whitehorse from Grande Cache, Alberta. Ms. Dehling's position would have Mr. Wright suffer a loss for transporting the Camper, while Ms. Dehling would obtain a profit.

[27] Ms. Dehling is obligated to pay Mr. Wright the costs of the transport of the Camper, excluding those related to the mechanical issue with the truck towing the Camper. Mr. Wright is also entitled to profit from doing so, as he declined another opportunity to transport items for a profit in order to transport the Camper. This said,

the truck that was towing the Camper was also doing so on the basis that Mr. Wright would sell it and make a profit in doing so.

[28] The \$4,000 that Mr. Wright offered on June 1, and which Ms. Dehling accepted, was intended to cover both expenses and profit, and is the best base indicator of what Mr. Wright should be compensated for. This said, I note that Mr. Wright offered to modify this amount, initially to \$3,400 and then to \$3,500. Ms. Dehling, in my opinion, never clearly and fully turned her mind as to whether to accept these offers or not, being focused on other matters as well. She did not clearly accept these offers, albeit at one point saying that \$3,400 was acceptable, and, while it could be found that her lack of making her position entirely clear allowed Mr. Wright to withdraw these offers, I am satisfied that the appropriate way to resolve the matter is to apply the original \$4,000 oral agreement as subsequently being modified through an offer and less-than-perfect acceptance such that Ms. Dehling should have had to compensate Mr. Wright in the amount of \$3,400. Reducing this amount by the \$1,500 Ms. Dehling has already paid, leaves an amount of \$1,900 owed by Ms. Dehling to Mr. Wright.

[29] In addition, Mr. Wright is awarded \$50 for the filing of the Claim and a further \$50 for filing the Notice of Trial. He is awarded post-judgment interest in accordance with the *Judicature Act*, RSY 2002, c. 128, commencing January 1, 2023.

COZENS C.J.T.C.