

CANADA / JUDGMENT

Arkell v. Civil Resolution Tribunal

2025 BCSC 2420

COURT

Supreme Court of British Columbia

DECIDED

8 December 2025

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2025 BCSC 2420 Arkell v. Civil Resolution Tribunal

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Arkell v. Civil Resolution Tribunal,

2025 BCSC 2420

Date: 20251208

Docket: L15463

Registry: Campbell River

Between:

Kelly Arkell

Petitioner

And:

Civil Resolution Tribunal

and Joan Cotie

Respondents

Before: The Honourable Justice Young

Reasons for Judgment

The Petitioner Appearing in Person:

K. Arkell

No Appearance by Counsel

for the Respondents:

Z. N. Rahman

Place and Date of Hearing:

Campbell River, B.C.

November 24, 2025

Place and Date of Judgment:

Campbell River, B.C.

December 8, 2025

- [1] This is a claim for judicial review of a Civil Resolution Tribunal (CRT) decision made on September 24, 2024.
- [2] The style of cause is hereby amended to correct the improperly naming of the CRT as the Civil Rights Tribunal. It should read the Civil Resolution Tribunal.
- [3] The dispute is between the petitioner Kelly Arkell and the parenting coordinator Joan Cotie who performed parenting coordinating services between Mr. Arkell and his ex-wife over Ms. Cotie's outstanding fee.
- [4] Ms. Cotie was not named as a respondent but was given notice of the petition. She should be named as a respondent and the style of cause is hereby further amended to add her name.
- [5] The CRT filed a response explaining its jurisdiction, procedure, the standard of review and available remedies. It took no position on the merits of the case.
- [6] Joan Cotie was served by email on September 3, 2025, and by mail prior to September 18, 2025 when she signed for accepting the documents. She has not filed a response nor did she appear at the hearing.
- [7] The essence of the judicial review sought by Mr. Arkell is that he made an offer to settle the debt claim with Ms. Cotie and he says she consented to the settlement agreement on two occasions. The CRT then interfered with their settlement causing Ms. Cotie to back out of the settlement agreement. When she did so, Mr. Arkell complained and withdrew from the dispute resolution process. The CRT proceeded with a dispute hearing in his absence and rendered its decision without any further input from him. He seeks to overturn that decision based on the breakdown in procedure.

Procedural background

- [8] Mr. Arkell and his former spouse retained Joan Cotie as a parenting coordinator to assist with their family law dispute. He provided a retainer and replenished the retainer and then became dissatisfied with the services of Ms. Cotie and did not pay the balance outstanding on her final account.
- [9] Ms. Cotie filed the dispute notice with the Civil Resolution Tribunal seeking repayment of the outstanding amount of \$4,924.02.
- [10] Mr. Arkell responded disputing the claim because he was dissatisfied with the service. In his dispute note he made several claims to correct what he saw as breaches of the service.
- [11] After filing his dispute and counterclaim, Mr. Arkell and Ms. Cotie reached an email agreement in the following terms:
- a) the respondent Kelly Arkell pay the applicant Joan Cotie Mediation Consulting Limited \$4,000 to be paid as eight payments of \$500 each due on May 1, 2024; November 1, 2024; May 1, 2025; November 1, 2025; May 1, 2026; November 1, 2026; May 1, 2027; and November 1, 2027 respectively.
 - b) The payments will be made by the respondent Kelly Arkell mailing a cheque two weeks before each payment is due to the applicant's address.
 - c) The respondent Kelly Arkell's counterclaim is dismissed.
- [12] This agreement was sent out in an email (by the case manager) on March 5, 2024 at 1:31 pm and she asked the parties to respond by saying "I agree" to confirm whether they agreed with the CRO. On March 5, 2024 at 3:11 pm, Mr. Arkell responded by email "I agree". On March 5, 2024 at 4:45 pm, Joan Cotie responded "I also replied and agreed."
- [13] On March 13, 2024 the case manager wrote Mr Arkell asking if he would agree to a payment method by etransfer instead. He responded : "We already have an agreement. Thank you."
- [14] Then on March 19, 2024 the case manager wrote to Mr. Arkell saying:
- Hello Mr. Arkell, I have heard from Ms. Cotie saying she wants a consent resolution order (CRO) and not an email agreement. She would like to return to the adjudication stage if there cannot be a CRO.
- If you wish to pay another way (ie. e-transfer, credit card or another payment method) a CRO could be issued for the due dates you've both agreed to, or by mail if the CRO specifies the mailing dates. Please respond by March 21.
- [15] Mr Arkell responded: "This is ridiculous as we had an agreement agreed to twice by both parties the CRT buggered up the handling of".
- [16] It is my view that an agreement was reached by Mr. Arkell and Ms. Cotie on March 5, 2024.

- [17] Two weeks later, Ms. Cotie attempted to reopen the negotiations by asking for an etransfer. Mr. Arkell did not agree to reopen the settlement.
- [18] The CRT takes the position that it had no authority to compel parties to consent to a settlement. That may be the case but in this case the matter was settled. The settlement should not have been reopened. Section 30 of the Civil Resolution Tribunal Act, S.B.C. 2012, c. 25 (CRTA) says if a claim has not been resolved during the case management phase, the claim is to proceed to resolution by tribunal hearing. Since this case did resolve in the case management phase in my view the CRT should not have proceeded with Ms. Cotie's claim in the face of a settlement agreement.
- [19] Mr. Arkell's counterclaim should be dismissed pursuant to the March 5, 2024 agreement. Due to the settlement he did not wish to proceed with his counterclaim. In any event I agree that the relief sought by Mr. Arkell related to the enforcement of the separation agreement between himself and his former spouse. These are family law matters which would have to proceed in the British Columbia Supreme Court. The CRT's jurisdiction to resolve small claims disputes is in the nature of the following where the total amount of the claim is less than or equal to \$5,000:
- a) debt or damages,
 - b) recovery of personal property,
 - c) specific performance of an agreement relating to personal property or services, and
 - d) relief from opposing claims to personal property.
- [20] It is possible that some of the claims in the counterclaim relate to specific performance of an agreement relating to services provided by a parenting coordinator. Mr. Arkell was unhappy with the services and wanted a reduction of the fee because of his dissatisfaction. However, because of my decision on the settlement, this is immaterial.
- [21] I see no need to review the Reasons for Decision of September 24, 2024. Mr. Arkell does not take issue with the decision itself other than to say that it should not have proceeded at all.
- [22] In its reply the CRT elected not to file the record in order to maintain confidentiality and because in its view the record was not required to resolve this dispute. The CRT said the "primary issue raised in the petition is the parties' failure to reach a settlement agreement". With respect I think the opposite is true. The issue is whether the parties DID reach an agreement.
- [23] Section 89(1)(a) of the CRTA says a person must not disclose in the court proceeding any communication made by one party to another in the course of using the CRT facilitated settlement services. I question whether this is true regarding the documentation of an agreement. There is an exception if the parties to the dispute resolution consent to the disclosure (s. 89(2)(a)). There is no indication that Joan Cotie has consented to such disclosure. The CRT decided that the complete record of the proceedings was not necessary

for the court to dispose of this issue in this case. They conclude by saying "ultimately there is nothing in the CRTA authorizing the CRT to compel parties to agree to a settlement of the dispute".

- [24] Mr. Arkell did provide copies of the emails between himself Joan Cotie and the case manager to prove that a consent email agreement had been reached. Although there is no indication that Joan Cotie consented to the release of this email information she was served with the filed affidavits in this proceeding and she opted not to file a response or to appear in court. She could have objected to the reference to these materials but she chose not to. I have relied on the email communications to come to the conclusion that an agreement had been reached.
- [25] The other issue raised in the petition by the petitioner was that the RCMP files be disclosed to him. This is not something that he sought from the CRT and I agree that the court should not consider it now.

Standard of review

- [26] Section 56.8 of the CRTA sets out the standard of review for claims which include small claims disputes. The standard of review to be applied to a decision of the tribunal is correctness for all questions except those respecting a finding of fact, the exercise of discretion or the application of common law rules of natural justice and procedural fairness.
- [27] The Supreme Court must not set aside a finding of fact by the tribunal unless there is no evidence to support a finding or in light of all the evidence the finding is otherwise unreasonable.
- [28] Whether or not a settlement was reached is a finding of fact. I find the case manager's conclusion that the parties had not reached an agreement to be an unreasonable conclusion based on the evidence that I have reviewed.
- [29] Section 5 of the Judicial Review Procedure Act sets out the remedies available to the court on judicial review. Relying on s. 5, I direct that the tribunal reconsider its decision on whether a settlement was reached. I do not have access to the full record but the tribunal does. Based on the excerpts of the record I have seen, I conclude that an settlement was reached. The tribunal should review the full record and reconsider this question.
- [30] I direct the CRT to reconsider its decision to proceed with a dispute hearing on a matter that had settled. I direct the tribunal to also consider whether to enforce the settlement agreement reached by the parties on March 5, 2024 and consider how to apply the payment already made by Mr. Arkell pursuant to a payment order in Provincial Court.
- [31] Mr. Arkell is the successful party and is entitled to the costs of this judicial review.

[32] Generally, an administrative tribunal is neither entitled to nor ordered to pay costs. An order for costs should only be made against a tribunal in the face of evidence of misconduct or perversity in the proceedings before it, or an inappropriate argument on the merits of the judicial review application: 18320 Holdings Inc. v. Thibeau, 2014 BCCA 494 at para. 55. In this case I do not find misconduct or perversity in the proceeding nor did the CRT make argument on the merits of the judicial review application. Mr. Arkell may think that proceeding with a dispute hearing in the face of a settlement is misconduct. I find that it is an error in evaluating the evidence and not misconduct. However, as the successful party in this matter, Mr. Arkell should not bear the costs. I therefore order that the costs of this petition be borne by Joan Cotie.

"B. M. Young, J."

The Honourable Justice Young

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Prepared on 29 October 2026 · Esheria