IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Royal Bank of Canada v. Krscanski,* 2023 BCSC 1252

Date: 20230601
Docket: S1810769
Registry: Vancouver

Between:

Royal Bank of Canada

Plaintiff

And

Veronica Krscanski

Defendant

Before: The Honourable Justice Thomas

Oral Reasons for Judgment

In Chambers

Counsel for the Plaintiff:	C. Ewasiuk
The Defendant, appearing in person:	V. Krscanski
Place and Date of Trial/Hearing:	Vancouver, B.C. June 1, 2023
Place and Date of Judgment:	Vancouver, B.C. June 1, 2023

[1] **THE COURT:** This is an application for summary judgment by the Royal Bank of Canada ("Royal Bank"), who is the plaintiff in this action.

[2] The notice of civil claim specifies an action for debt from a visa and chequing overdraft at paragraphs 1 to 8 of part 1 of the notice of civil claim.

[3] It is clear from the account statements and the underlying contracts contained in the affidavits the debt was incurred and appropriate interest was charged.

[4] The defendant does not deny the underlying facts or authenticity of the documents but says the Royal Bank has not met the evidentiary requirements of a summary trial to establish their case.

[5] The defendant objects to the affidavit evidence on the following grounds:

a) The affidavits were commissioned by a commissioner of oaths in Ontario and are not admissible in BC. There is no basis to this objection. See s. 63 of the *Evidence Act*, R.S.B.C. 1996, c. 124.

b) The identity of the testator was not properly set out in the affidavit. After reviewing the affidavits, the defendant withdrew this objection. It is clear that the identity of the testator and her ability to authenticate the documents as business records was appropriately set out.

c) The testator did not identify who showed her the exhibits she identified. In my view, it is clear that the testator obtained the exhibits from the Royal Bank, her employer, and that given her position as an employee of the bank that she could authenticate the documents.

d) The exhibits contained inadmissible hearsay evidence. This objection is directed at the account statements underlying contract for the accounts and the accounts openings. In my view, the plaintiff has established the requirements necessary to make this evidence admissible as business records.

e) The exhibits obtain opinion evidence with respect to calculations of interest owed. In my view, this evidence is not opinion evidence but rather factual evidence demonstrating how interest was calculated in this case pursuant to the contract. In fact, no evidence would be required for the court to make these calculations.

f) Exhibits were attached using the phrase "now shown and produced to me." The defendant says this is an inappropriate phrase to properly identify the exhibits. I disagree. In my view, this complies with Rule 22. This was related to the earlier objection that the defendant had with respect to the documents.

g) Exhibit identifications were made on blank pages with the exhibits following. The defendant conceded that there was no confusion as to what exhibit was being identified in this matter. This was strictly an objection based on form. I see no basis to this objection.

h) The testator made several mistakes in the affidavit material that were subsequently corrected with an explanation as to how the mistakes were uncovered in subsequent affidavits. In my view, the affidavits have now been thoroughly reviewed, and I am confident that they accurately reflect the accounts in question. The fact that some clerical mistakes were made and subsequently corrected in a transparent manner do not make the affidavits inadmissible, nor do they cause me to question the veracity or reliability of the testator.

[6] All of these objections were explored with the defendant for each affidavit. I determined that the affidavits were all admissible for the reasons provided above.

[7] The defendant says that the notice of civil claim does not plead sufficient material facts. In my view, the notice of civil claim does plead sufficient facts at paragraphs 1 to 8, part 1. I should note that the notice of civil claim does not plead evidence which is properly submitted through affidavit material. This evidence was properly provided through affidavit and consists of, amongst other things, a complete

copy of all the relevant service agreements and all the relevant account statements along with interest calculations. There is no question in my mind that the defendant has all the relevant documents and is aware of the case that she is required to meet.

[8] The defendant says that the Royal Bank administered her accounts using two different agreements. This is simply not the case. Confusion was caused because the wrong account was initially mistakenly provided to the defendant. This mistake was corrected with a complete explanation.

[9] Although the plaintiff's accounts were amended from time to time, the amendments were not material to her interest rate or the terms of her credit or charges.

[10] The defendant says that her Equifax credit history does not accurately represent the debt owed to her by the Royal Bank and that this should cause me to question the amount owed to her by the bank.

[11] In my view, the amount that the defendant owes on her Equifax credit history is irrelevant. The governing issue are the contracts and the underlying interest calculations.

[12] The Royal Bank changed her overdraft balance to zero for internal accounting purposes, once collection proceedings were commenced. The plaintiff says that this should invalidate the debt she owes to the bank. I reject this assertion. This has no impact on her debt. It is simply how the Royal Bank internally handles delinquent accounts for accounting purposes.

[13] The defendant says that she has not been provided with records dating back past 2016. These records are irrelevant as the debt did not occur until after that date. In addition, the bank does not keep records past seven years, so they longer exist.

[14] The defendant says that the plaintiff has not complied with s. 77 of the *Business Practices and Consumer Protection Act,* S.B.C. 2003, c. 2. In my view, the debt owed amounts to a demand loan and, as such, s. 77 does not apply.

[15] The defendant says that she was harassed at work over payment and that this should invalidate the claims of debt against her. In my view, the appropriate remedy for this would be to apply for relief under the appropriate consumer protection legislation. In any event, it does not affect the amount of debt owed in this action.

[16] The defendant says that the interest calculations contain numerous errors. These errors were addressed in subsequent calculations provided to the court by the Royal Bank. I am not aware of any errors identified by the defendant that have not been addressed by the bank in these supplemental materials.

[17] The defendant says that several days were double counted with respect to the interest she owes. I do not accept this evidence. In my view, the calculations accurately reflect the interest owed. The calculations are somewhat complicated as there are a number of periods where the defendant was charged a lower interest rate.

[18] The defendant objects to the admissibility of affidavit #2 of Arri Blanca dated May 16, 2023. It contains a calculation showing the updated interest owed from November 1, 2022, to June 1, 2023. It uses the same calculation methodology used by previous calculations.

[19] The defendant objects to the admissibility of this affidavit as she has not had a chance to review it for accuracy. I have reviewed the affidavit. It is clear that it uses the appropriate methodology and calculates the appropriate interest rate over the appropriate number of days, which would be from November 1 to June 1, 2013.

[20] The calculations are not complicated and, in my view, could simply be done by hand instead of by affidavit material. I will admit the affidavit so it is clear how these interest rates have been calculated. It is regrettable that it was not provided to

the defendant; however, I am satisfied, as I have noted, that the calculations are accurate, and we will admit so it is clear how the amount of interest is calculated. In my view, this is not opinion evidence there are merely calculations based on the evidence.

[21] For these reasons I grant judgment to the Royal Bank for the visa amount of $21,418.34 and for the overdraft, $4,067.86.

[22] With respect to the scales of costs, scale A is the lowest cost and scale B is medium complexity and scale C is high complexity. In my view, this should be at a scale A cost, which is the lowest cost.

[23] Do you have any submissions to make with respect to costs being assessed against you?

[24] V. KRSCANSKI: Okay. I thought it was anything under $25,000 was not -- costs were not applicable. Am I mistaken in that?

[25] CNSL C. EWASIUK: The rule, I think it is 14-1(10) is it is discretionary on the court if there is sufficient reason for there to be costs awarded.

[26] THE COURT: I agree with the defendant, in this case the costs, because of the amount claimed should not be assessed; however, I am going to award the plaintiff their disbursements for this matter as opposed to costs.

[27] Disbursements are out-of-pocket expenses. If you have any issues with the disbursements claimed by the Royal Bank the defendant may challenge them before the registrar.

[28] I have reviewed a vetted order provided to me by the Royal Bank. The order is accurate and I approve the order and have signed it.

"Thomas J."