

NO.
REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BRYAN BROWN

APPELLANT

AND:

CAROL SMITH

RESPONDENT

APPELLANT'S STATEMENT OF ARGUMENT

ISSUES ON APPEAL: The appellant agrees with the order appealed from except as follows:

(state clearly and in numbered paragraphs in what respect the order appealed from is alleged to be in error)

1. The Order is in error in that it requires the Appellant to pay to the Respondent the sum of \$8000 for money lent by the Respondent to the Appellant.

ARGUMENT: The order appealed from is in error because:

(set out argument why the order is alleged to be in error, in numbered paragraphs including the points of law or fact with a reference to the exhibit or page and lines of the transcript and the authorities in support of each point)

1. The Judge failed to apply the Limitation Act to bar the claim made by the Respondent.
2. Transcript Page 4 Line 12: The Respondent states that she loaned \$10, 000 to the Appellant to buy a car on April 1st 1991.
3. Exhibit 1: An Agreement between the Appellant and Respondent in which the Appellant acknowledges the debt and agrees to repay it at the rate of \$200 per month. The Agreement is dated 1 April 1991.
4. Transcript Page 8 Line 2: The Respondent states that she can not remember the last time the Appellant made payments toward the loan.
5. Exhibit 2: A list of repayments. This document shows the last recorded repayment was March 1992. The Appellant had made 10 payments of \$200 each.
6. Transcript Page 8 Line 15: The Respondent could not remember any acknowledgement of the debt in writing made after March 1992.

7. Transcript Page 14 Line 22: The Appellant states that the last payment made toward the loan was March 16, 1992.
8. Transcript Page 15 Line 6: The Appellant states that since March 1992 he did not acknowledge the debt in writing.
9. Exhibit 3: Notice of Claim: The Notice of Claim as filed on May 2, 1998.
10. Transcript Pages 18 -19: Reasons for Judgment: The Reasons for Judgment do not refer to the Limitations Act at all.
11. Limitation Act, Section 3 (5) provides for a six year limitation period.

NATURE OF THE ORDER SOUGHT:

(set out the order you wish the court to make including any special disposition as to costs and payment out of monies paid into court pursuant to section 8 of the Small Claims Act)

1. An Order dismissing the Respondent claim for \$8000.
2. An Order for costs.
3. An Order directing that the sum of \$8,200 which the Appellant paid into court pursuant to Section 8 of the Small Claims Act be returned to the Appellant.

Dated: _____

Party (or Party's Solicitor)