

Be Careful What You Text – It Might Be A Binding Contract



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In *Kambere v. Castillo*, 2024 BCCRT 1224, the B.C. Civil Resolution Tribunal (the “CRT”) determined that the applicant, Kambere, and the respondent, Young, entered into a binding contract for Taylor Swift tickets on the basis of their text messages.

Facts

The process of buying Taylor Swift tickets was phased. Those who wanted to buy tickets had to register. Only a certain number of registrants received an access code, which allowed them to buy up to four tickets.

Kambere and Young were friends and both wanted to attend the concert with their daughters. Only Young received an access code. She bought four tickets.

Kambere alleged they had an agreement that if one of them was able to buy tickets, she would buy tickets for the other. Young denied having any such agreement.

Decision

The CRT held that a legally binding agreement requires there to be a “meeting of the minds” on the agreement’s essential terms. That is an objective test. However, the requirement for certainty of terms must not be applied so rigidly as to undermine the parties’ intent to create a binding agreement and, in some cases, gaps may be left by the parties for future accommodations.

The CRT’s analysis was based exclusively on text messages which passed between the parties.

On November 2, 2023, the parties had a text exchange where they agreed to both register for tickets to increase their chances of securing an access code, and hoped that one of them would get a code. The CRT found these messages to confirm that the parties intended to work together to improve their chances of obtaining tickets.

On November 8, 2023, Kambere sent a text message to Young asking her to buy two tickets if she was unable to secure an access code. Young replied, “I can buy tickets too because we want to sit together.” Kambere responded, “You’re the best.” The CRT held those text messages to contain an offer and acceptance.

The CRT further held that there was consideration – the agreement was contingent on Kambere paying Young for the tickets once they were obtained. This was evident by the parties' text messages on November 9, 2023 before the tickets went on sale. At that time, Young asked Kambere what her budget was and Kambere responded, "I have no idea what to expect for price. \$500?"

The CRT noted that price is typically an essential contractual term. However, because the parties did not know how much the tickets would cost, they intentionally left that out of the agreement. Rather, it was an implied term that once Young confirmed the cost of the tickets, she would offer them to Kambere at the price she paid.

The CRT held this was reinforced by the parties' next set of text messages. On November 9, 2023, Young confirmed she had purchased the tickets, to which Kambere responded, "Omg the girls ... are going to go crazy!!" and asked how much she owed. Young told Kambere that they would deal with the matter when she returned from her out-of-country trip. Based on that exchange, the CRT held that "a reasonable person would have taken this as confirmation that Mrs. Young intended to provide Mrs. Kambere two concert tickets at the price she paid for them once she figured that out".

Later that month, Young attempted to back out of the parties' agreement. She subsequently stopped responding to Kambere. The CRT held that Young breached the agreement by failing to transfer the tickets to Kambere at the price she paid.

In terms of remedy, the CRT ordered specific performance on the basis that a monetary award would have been insufficient. The concert was unique. Young was ordered to transfer the tickets to Kambere, and Kambere was ordered to pay Young the price paid for those tickets.

Takeaways

This decision is an important caution for employers regarding the creation of legally binding and enforceable contracts:

- Even in the most informal conversations, parties may be creating legally binding agreement – even if the agreement is oral.
- A gap in terms, even essential terms, may not invalidate the contract. That is especially so if there is a sufficient reason for the term to be missing

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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